BEARD'S HISTORIOGRAPHY AND THE CONSTITUTIONAL CONVENTION

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In the scholarly discussions which the bicentennial of the 1787 Constitutional Convention will generate, Charles Beard’s Economic Interpretation of the Constitution of the United States will undoubtedly be the focus of renewed historiographic debate. Although Beard’s revolutionary analysis of the events in Philadelphia was severely challenged during the 1950s by such writers as Douglass Adair, Cecelia M. Kenyon, Robert E. Brown, and Forrest McDonald, later commentators have given a new spurt of life to Beard’s interpretation. The appearance in 1969 of Gordon Wood’s Creation of the American Republic, 1776–1787, heralded a revival of interest in Beard’s work on the Constitution.


3. Gordon S. Wood, The Creation of the American Republic 1776–1787 (Chapel Hill, N.C., 1969). Further testimony to the continued vitality of Beard’s study is provided by the number of textbooks on American history and American government that continue to explain the Constitutional Convention in terms of his thesis on the economic interests of the Founding Fathers.

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The Beard thesis, in brief, held that the Founding Fathers were not a dedicated band of statesmen intent on saving the United States from economic chaos and political anarchy but rather a group of conspirators working to protect their own financial interests and the property interests of the class in society to which they belonged. It was wrong to assume that the Constitution reflected democratic principles since, in fact, it was really designed to serve as a barrier against the rising onslaughters of the leveling masses intent on challenging the sanctity of property. The Constitution was not intended to promote majority will but rather to frustrate it. In Beard’s words, it was to be “a government endowed with certain positive powers, but so constructed as to break the force of majority rule and prevent invasions of the property rights of minorities.”

The Constitution was the product of a cabal, a giant conspiracy in the service of personal property to foist upon the American people a scheme of government that would constrain their striving for democracy.

The evolution of the “plot” is described by Beard as follows:

Personalty . . . was . . . the dynamic element in the movement for the new Constitution. . . . Large and important groups of economic interests were adversely affected by the system of government under the Articles of Confederation, namely, those of public securities, shipping and manufacturing, money at interest; in short, capital as opposed to land. . . . The increasing recognition of the desperate straits [sic] in which they were placed, a remarkable fusion of interested forces was effected. The wealth, the influence, and a major portion of the educated men of the country were drawn together in a compact group, “informed by a conscious solidarity of interests,” as President Wilson has so tersely put it. . . . Having failed to realize their great purposes through the regular means, the leaders in the movement set to work to secure by a circuitous route the assembling of a Convention to “revise” the Articles of Confederation with the hope of obtaining, outside of the existing legal framework, the adoption of a revolutionary programme.

Undoubtedly, the key chapter in Beard’s work is the sixth, entitled “The Constitution as an Economic Document,” and the key section of that chapter is the first part, devoted to a consideration of The Federalists and the structure of government established at Philadelphia. Upon this section Beard’s entire argument depends. In his first five chapters Beard analyzes the 1787 movement for the Constitution and the economic interests of the members of the Constitutional Convention. In the last five chapters he analyzes the process of ratification in the states and the extent to which the vote on behalf of the Constitution represented the wishes of the majority of the population. But it is only by exposing “the true inwardness of the Constitution” that Beard purports to prove the existence of a plot. For even if he succeeded in establishing the relationship of the Framers to a certain class in society, his whole case would fail unless he could also demonstrate how that class affiliation was reflected in the drafting of the particular provisions of the Constitution related to the machinery of government. Only by confirming the link between the interests of the drafters and the actual formulation of the provisions on the “structure of government” can Beard establish his case and label the Framers as conspirators. Beard’s originality lay not only in revealing to an unsuspecting America that its Founding Fathers were men of clay (and not the “demigods” that Jefferson had called them) but also in demonstrating that the provisions relating to the framework of government were artifices for crippling democracy, “a foil” in the service of personality to ward off “the attacks of levelling democracy.”

Despite the vast literature that Beard’s thesis has spawned, his methodology in the crucial section of Chapter 6 on the “economic implications of the structure of the federal government,” has not been subjected to close examination. Beard’s assertion regarding the rationale that underlies the framework of government warrants particular scrutiny, as does his use of sources. In analyzing the provisions on “the structure of the federal government” (pp. 152–164 of Chapter 6), Beard ignored almost entirely the most reliable source extant—the records of the Constitutional Convention, documents that he used extensively in Chapter 7 to establish the sociopolitical views of the Founders. Finally, while writers have noted Beard’s obsession with “personalty,” as against property in general, at Philadelphia, none has suggested an explanation for his singling out personality in this manner.

8. An Economic Interpretation, p. 152.
10. An Economic Interpretation, p. 154.
11. Ibid., p. 156. Brown, of course, in his chapter-by-chapter refutation of Beard, also challenges Beard’s conclusions on the nature of the Constitution. However, his critical study does not present the analysis of Beard’s methodology offered in this paper.
12. In the entire thirteen pages devoted to analyzing the structure of the federal government, Beard makes a solitary reference (p. 157) to the Records, and that on an issue tangential to the provisions on government structure. He makes no effort to establish the motives of the Founders on any given provision by reference to their remarks at the Constitutional Convention.
13. See, for instance, Hofstadter, The Progressive Historians, p. 231; and Brown, Charles Beard and the Constitution, pp. 94–96, 111.
This paper addresses itself to these aspects of the Beardian thesis not previously dealt with in the literature.

The first purpose is to examine those features of the Constitution bearing on the framework of the federal government that, according to Beard, stamp it as an economic document. In particular, this review will ascertain to what extent Beard succeeded in establishing that “the political science of the new system” was informed by an essentially economic motive. If it can be shown that the structural features of which Beard complained were, since the dawn of independence in 1776 or shortly thereafter, part and parcel of the constitutions of the various states – the repositories of freedom and liberalism – then how relevant is the claim that these features were introduced to protect a propertyed minority “adversely affected” under the Articles of Confederation? In short, given the widespread and simultaneous adoption of these features of government in the states, would it not be reasonable to assume that they were introduced into the federal Constitution for the same reason that they had been incorporated in the state constitutions, namely, because they were deemed vital elements of republican representative government?

Beard describes in the following terms “the structure of the government . . . devised at Philadelphia [which] reflects these several interests and makes improbable any danger to the minority from the majority.”

Their leading idea was to break up the attacking forces at the starting point: the source of political authority for the several branches of the government. This disintegration of positive action at the source was further facilitated by the differentiation in the terms given to the respective departments of the government. And the crowning counterweight to “an interested and over-bearing majority,” as Madison phrased it, was secured in the peculiar position assigned to the judiciary, and the use of the sanctity and mystery of the law as a foil to democratic attacks. . . . no two of the leading branches of the government are derived from the same source. The House of Representatives springs from the mass of the people whom the states may see fit to enfranchise. The Senate is elected by the legislatures of the states, which were, in 1787, almost uniformly based on property qualifications . . . . The President is to be chosen by electors selected as the legislatures of the states may determine – at all events by an authority one degree removed from the voters at large. The judiciary is to be chosen by the President and the Senate, both removed from direct popular control and holding [office] for longer terms than the House.


A sharp differentiation is made in the terms of the several authorities, so that a complete renewal of the government at one stroke is impossible. The House of Representatives is chosen for two years; the Senators for six, but not at one election, for one-third go out every two years. The President is chosen for four years. The judges of the Supreme Court hold [office] for life. Thus “popular disturbances,” as eighteenth century publicists called them, are not only restrained from working their havoc through direct elections, but they are further checked by the requirement that they must last six years in order to make their effects felt in the political department of the government, providing they can break through the barriers imposed by the indirect election of the Senate and the President. Finally, there is the check of judicial control that can be overcome only through the manipulation of the appointing power which requires time, or through the operation of a cumbersome amending system.

The keystone of the whole structure is, in fact, the system provided for judicial control – the most unique contribution to the science of government which has been made by American political genius.

Thus, according to Beard, the economic antidemocratic character of the Constitution is revealed by the following features:

1. the separation of powers;
2. checks and balances;
3. a cumbersome amendment system;
4. different modes of election for each branch of government;
5. different terms of office for the respective branches of government;
6. indirect election of the Senate and President;
7. judicial control of legislation.

The Separation of Powers

In Beard’s view there was a direct link between Federalist 10, in which Madison supposedly enunciated “the fundamental theory of political economy” underlying the Constitution, and Federalist 47, 48, 49, and 51, in which he expounded, in Beard’s words, “the original American conception of the balance of powers.” Citing Madison’s language in the second part of Federalist 51, Beard asserted that the doctrine of the separation of powers was also designed “to guard one part of the society against the injustice of the other part.” Beard’s conclusion was that “by reflecting these contending interests . . . in the very structure of the government itself,” there would be assurance “that a majority cannot dominate the minority – which minority is of course composed of those who possess property that may be attacked.”

15. Ibid., pp. 161–162.
16. Ibid., pp. 159–160. It is interesting to note that according to Beard, Madison was intent on reflecting the conflicting social interests in the structure of government. Wood’s analysis leads him to
Besides misrepresenting Madison's analysis of the purposes of the principle of the separation of powers (on which, see below), Beard fails to note that the principle was regarded in the states as an "axiom" of free government. 17

The principle of the separation of powers was expressly spelled out in six of the eleven state constitutions adopted between 1776 and 1787, when the Constitutional Convention sat. The clearest expression of the principle of the separation of powers and its purpose was to be found in the Massachusetts Constitution of 1780.

In the government of this commonwealth, the legislative department shall never exercise the executive and judicial powers, or either of them; the executive shall never exercise the legislative and judicial powers, or either of them; the judicial shall never exercise the legislative and executive powers, or either of them; to the end it may be a government of laws, and not of men. 18

The principle of the separation of powers was not stated explicitly in the federal Constitution, but it lay at the base of the whole document. The absence of this principle in the Constitution would have flawed it beyond reparation. Indeed, the debates in the state ratifying conventions on this subject revolved around the charge of the Anti-Federalists that the principle was not adequately instituted in the new Constitution — that the division between the three branches of government was not absolute or at least sufficiently categorical. It was Madison's task in the several numbers of _The Federalist_ to prove that the concept as applied in the federal Constitution, while it did not institute a watertight division between the branches of government, conformed to the concept as enunciated by "the celebrated Montesquieu,"

the opposite conclusion. As he says, "The Americans had taken the people out of the government altogether." "Americans had retained the forms of the Aristotelian schemes of government but had eliminated the substance, thus dispersing the various parts of the government of their social constituencies. Political power was thus disembodied and became essentially homogeneous." "Separation of powers ... was simply a partitioning of political power. ... Such a "partitioning" of power was designed to provide for the safety and ease of the people. ... But it was not a balance of 'any intrinsic or constitutional properties,' of any social elements, but rather only a balance of governmental functionaries without social connections, all monitored by the people who remained outside." Wood, _The Creation of the American Republic_, pp. 599, 604.

17. See Madison in _Federalist_ 47. The principle of the separation of powers did not, however, as Madison noted, imply _total_ separation, either in theory or in the practice of the states.

18. Article 30 of Part the First of the Massachusetts Constitution. The other state constitutions with an analogous provision were those of Georgia, Maryland, North Carolina, New Hampshire, and Virginia; see appendix. Copies of the state constitutions can be found in B. P. Poore, ed., _The Federal and State Constitutions, Colonial Charters, and Other Organic Laws of the United States_, 2 vols. (Washington, D.C., 1877).

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checks and balances

The great fear of the Founding Fathers was that the legislature was becoming an all-powerful institution. "The legislative department is everywhere extending the sphere of its activity, and drawing all power into its impetuous vortex," declared Madison in _Federalist_ 48. "Legislative usurpations," he warned, "by assembling all power in the same hands, must lead to the same tyranny as is threatened by executive usurpations." The experience of the states in the period after the Revolution, Madison claimed, demonstrated the aggrandizing character of the legislatures. "In republican government," said Madison, "the legislative authority necessarily predominates." 20 To overcome this "inconvenience," it was necessary "to divide the legislature into different branches; and to render them, by different modes of election and different principles of action, as little connected with each other as the nature of their common functions and their common dependence on the society will admit." 21

Bicameral legislatures existed in all of the states except two — Pennsylvania and Georgia. At the Constitutional Convention, George Mason, delegate from Virginia, noted the consensus on the necessity of bicameralism in a legislature. The minutes record his views as follows:

Much has been said of the unsettled state of the mind of the people. he believed the mind of the people of America, as elsewhere, was unsettled as to some points; but settled as to others. In two points he was sure it was well settled. 1. in an attachment to Republican Government. 2. in an attachment to more than one branch in the Legislature. Their constitutions accord so generally in both these circumstances, that they seem almost to have been preconceived. This must either have been a miracle, or have resulted from the genius of the people. 22

19. _Federalist_ 47. In the course of the state ratifying debates, two states — North Carolina and Virginia — proposed an amendment to the Constitution spelling out the separation of powers. See Charles C. Taney, ed., _Documents Illustrative of the Formation of the Union of the American States_ (Washington, D.C., 1927), pp. 1028–1029, 1045. A draft resolution to this effect was adopted by the House of Representatives but barred by the Senate. As a result, no such draft amendment was adopted for inclusion in the Bill of Rights. The Senate journal provides no explanation for the Senate's decision. For discussion, see Louis Fisher, _Presidents and Congress: Power and Policy_ (New York, 1972), pp. 22–27.

20. _Federalist_ 51.

21. Ibid.

22. Farrand, _Records_, 1, 339.
The debate at Philadelphia on the form of the legislature reflected, of course, the small-state/large-state controversy. The smaller states were content to retain the one-house Congress of the Articles of Confederation in which each state had but one vote. The larger states, intent that the weight of population be reflected in a two-house legislature, opposed the whole notion of representation by states. The Connecticut Compromise, by resolving the small-state/large-state controversy, also resolved the dispute over a bicameral legislature.  

Bicameralism represented one form of checks and balances; other devices were the veto in the hands of the executive, authority in the legislature to override the veto, the pardoning power, a council of revision, impeachment of officers, and joint appointment of officials by the executive and some part of the legislature. Without exception, each of the state constitutions contained one or more of these forms of checks and balances. Particularly noteworthy were the constitutions of Massachusetts and New York. Besides bicameral legislatures, these two constitutions provided for a veto of legislation by the governor acting alone or as part of a council of revision, a veto that could be overridden by a two-thirds vote of both houses. Both constitutions also provided for legislation to enter into force automatically if, within a certain period, a bill was neither signed nor vetoed.  

Impeachment of officers (including the governor), a pardoning power, and a role for both the governor and the legislature in the appointment of judges and officers (civilians and military) were also provided for. These two constitutions, in particular, served as convenient models for the framing of various checks and balances in the federal Constitution.

23. "There is a tradition that, on his return from France, Jefferson called Washington to account at the breakfast table for having agreed to a second chamber. 'Why,' asked Washington, 'did you pour that coffee into your sauce?' 'To cool it,' quoth Jefferson. 'Even so,' said Washington, 'we pour legislation into the senatorial sauce to cool it.'" Farrand, Records, III, 359. The story is quite apocryphal since Jefferson, no less than Washington who presided at Philadelphia, realized that it was only the adoption of the Connecticut Compromise, with its provision for state representation in the second house, that saved the Convention from complete collapse.

24. See Article 2, Chapter 1, of Part the Second of the 1780 Massachusetts Constitution and Article 3 of the 1777 New York Constitution.

25. For these various provisions, see the New York Constitution: Articles 3, 18, 23, 32, and 33; and the Massachusetts Constitution: Part the Second, Chapter 1, Section 1, Articles 2 and 4, and Chapter 1, Section 3, Article 6, and Chapter 2, Section 1, Articles 8, 9, and 10. At the Constitutional Convention Madison remarked, "The Revisionary check [was formed] on that [model] of N. York." Farrand, Records, II, 291. See also on this point Federalist 69 by Hamilton, who claims that the Massachusetts Constitution, which had no council of revision, was actually the model.


28. See Farrand, Records, I, 22. Art. 13. "Read, that provision ought to be made for the amendment of the Articles of Union whencesoever it shall seem necessary, and that the assent of the National Legislature ought not to be required thereto."

29. Article 30 of the 1776 Delaware Constitution.

30. Article 44 of the 1778 South Carolina Constitution.

31. Article 59 of the 1776 Maryland Constitution, or Form of Government.
only a special convention convened by the Council of Censors could adopt amendments to the constitution. Similarly, in Georgia the state constitution required a special convention that could be convened only upon petitions from a majority of counties, endorsed by a majority of voters in each county in the state.

The federal amendment procedure was neither as simple as that of Delaware nor as burdensome as that of Georgia. It was designed, in the words of Madison, to guard "equally against that extreme facility, which would render the Constitution too mutable; and that extreme difficulty, which might perpetuate its discovered faults." But once again, state practice, which offered the example of an amendment system not subject to a crippling unanimity requirement, had shown the way.

Different Modes of Election for Each Branch of Government

In republican government, declared Madison in Federalist 51, since "the legislative authority necessarily predominates," it was necessary to divide the legislature into different branches "and to render them, by different modes of election and different principles of action, as little connected with each other as the nature of their common functions and their common dependence on the society will admit." This criterion, to a lesser or greater degree, can be found also in the several state constitutions.

Thus, in the Massachusetts Constitution, while both houses were popularly elected (annually), the lower house (the House of Representatives) was composed of delegates from the corporate towns in proportion to population, while the upper house (the Senate) was composed of forty members elected in proportion to the taxes paid by each district. A similar distinction between population districts and tax districts operated in New Hampshire. In New York, the lower house (the Assembly) was composed of members chosen by the counties according to population, and the upper house (the Senate) was made up of twenty-four members representing the "four great districts" into which the state was divided. In North Carolina, while the Senate was composed of one representative chosen by the people of each county, the House of Commons represented the towns as well as the county districts. Under the Virginia Constitution, the people of each county chose two representatives for the House of Delegates, while the twenty-four members of the Senate were to be chosen by the twenty-four districts into which the state was to be divided. And in Maryland, while the citizens of each county selected four members to the House of Delegates, the members of the Senate were chosen indirectly. The people chose electors of the Senate who, in turn, selected the fifteen senators to sit in the upper house. Clearly, the principle of employing different modes of election for different branches of government was widely applied in the states by 1787.

Different Terms of Office for the Respective Branches of Government

In about half of the states, both branches of the legislature were elected annually. But in the remainder, while the first branch was usually elected annually, the second branch had a longer term of office. In Delaware the members of the Council served for three years, with one-third retiring annually after the first set of elections. Similarly, in New York and Virginia, the members of the Senate were chosen for four years, with one-fourth retiring annually. In contrast, in Maryland, the full Senate was elected for a five-year term with no staggered terms for its members.

The term of office of the state governors in many cases did not extend beyond a year, but there were also precedents for longer terms. In South Carolina, the governor served for two years (matching the terms of both branches of the legislature), and in Delaware he held office for three years, equal to the term of office of the members of the upper house of the legislature.

32. Section 47 of the 1776 Pennsylvania Constitution.
33. Article 63 of the 1777 Georgia Constitution.
34. Federalist 51.
35. Chapter 1, Sections 2 and 3 of Part the Second of the 1780 Massachusetts Constitution.
37. Articles 4, 10, and 12 of the 1777 New York Constitution.
38. Articles 1–3 of the 1776 North Carolina Constitution, or Form of Government.
40. Articles 2, 14, and 15 of the Maryland Constitution, or Form of Government.
41. The one exception was South Carolina, where the members of the lower house were elected for a two-year term. Articles 12 and 13 of the 1778 South Carolina Constitution.
42. Article 4 of the 1776 Delaware Constitution.
43. Article 11 of the 1777 New York Constitution.
44. The 1776 Constitution of Virginia.
45. Articles 14 and 15 of the 1776 Maryland Constitution.
46. Articles 3, 12, and 13 of the 1778 South Carolina Constitution.
(one-third of whom retired annually); and in New York the governor served
for three years, while the members of the lower house were elected annually
and the members of the upper house served for four years. 48

Indirect Election of the Senate and the President

In all but three of the states, the executive was elected by the state legis-
lature. 49 In some of these states, the choice was made in a joint vote of both
houses; in others, each house retained a negative on the other. In two of the
three states where the choice was made by popular election, if no candidate
received a clear majority, the choice fell to the legislature. 50 Only in New
York was the legislature denied any role in choosing the executive even on a
contingency basis. A plurality of the popular vote was sufficient to select
the governor. 51

There was also a precedent in the states for the indirect election of the
upper house. The Senate in Maryland, as noted earlier, was elected for a
five-year term by a group of electors chosen by the people. 52 But in contrast
to the federal Senate, elections to the Maryland Senate took place only at
the end of the five-year term, since no part of the Senate retired in between.
Madison duly noted all of this in Federalist 63 in his discussion of the proposed
United States Senate. He concluded: "The Maryland constitution is daily
deriving, from the salutary operation of this part of it [an indirectly elected
Senate], a reputation in which it will probably not be rivalled by that of
any State in the Union."

Judicial Control of Legislation

Beard's analysis contains two elements: first, that the Founding Fathers
actually intended to confer the power of judicial review upon the courts;53

47. Articles 7 and 4 of the 1776 Delaware Constitution.
48. Articles 17, 4, and 11 of the 1777 New York Constitution.
49. See the appendix on state Constitutional practice, 1776–1787.
50. See Chapter 2, Article 3, Part the Second, of the 1780 Massachusetts Constitution and the
section in the New Hampshire Constitution entitled "Executive Power – President." In the absence of
a majority, in both cases the lower house nominated two out of the top four, and the upper house made
the final choice out of the two nominees.
51. Article 17 of the 1777 New York Constitution.
52. Article 15 of the 1776 Maryland Constitution. At the Convention, Madison stated categorically,
"The Senate was formed on the model of that of Maryland." Farrand, Records, II, 291. See also I, 218–
219.
53. A year prior to the appearance of his work on the Constitution in 1913, Beard had published
a book, The Supreme Court and the Constitution, that endeavored to establish that the Framers intended
and second, that the system of appointing judges "during good behavior"
was meant to operate as an antimajoritarian device. Whether or not either
of these charges is supportable, state practice had long before 1787 instituted
appointment during good behavior for judges to ensure the independence
of the judiciary. Hamilton, of course, in Federalist 78, assumed that the
federal judiciary would exercise the power of judicial review, but this does
not tell us anything conclusive about the intentions of a majority of the
Framers at Philadelphia, given the silence of the Constitution itself on the
subject of judicial review. And Hamilton, in this same number of The
Federalist, highlighted the fact that judicial appointment "during good
behavior" was a common feature of the state constitutions. In nine out of
thirteen states, judges were accorded such tenure. 53 The Massachusetts
Constitution well expressed the dominant concern underlying such provisions:

It is the right of every citizen to be tried by judges as free, impartial, and independent as
the lot of humanity will admit. It is therefore, not only the best policy, but for the security
of the rights of the people, and of every citizen, that the judges of the supreme court should
hold their offices as long as they behave themselves well, and that they should have honorable
salaries ascertained and established by standing laws. 55

In borrowing from these various precedents, the Founding Fathers were
clearly motivated by a desire to ensure the absolute independence and in-

the courts to exercise the power of judicial review. For Beard this resolved the issue. As he says, "In
view of the evidence . . . it is incumbent upon those who make this [contrary] assertion to bring forward
positive evidence to the effect that judicial control was not a part of the Philadelphia programme" (An
Economic Interpretation, pp. 162–165). This, however, has not stifled the debate. See the discussion in
the introduction by Alan F. Westin to Beard's The Supreme Court and the Constitution (Englewood Cliffs,
N.J., 1962). The absence of any express clause on judicial review in the Constitution places the onus
on those asserting that such a power was, in fact, invested in the Supreme Court. As for Beard, it is
clear that his two books served as but a two-stage, concerted attack on the economic motives of the
Founding Fathers. The economic thesis that Beard was to enunciate in his 1913 work on the Constitution
was already foreshadowed in several passages in his 1912 work on the Court. Judicial review was but
one of many "devices" that "bear witness to the fact that the underlying purpose of the Constitution
was not the establishment of popular government by means of parliamentary majorities" (The Supreme
Court and the Constitution, p. 96).

Beard's 1913 study, Economic Origins of Jeffersonian Democracy (New York, 1915), extended his economic
analysis to the emergence of the Federalist and Republican parties after the Constitution went into force.
"The men who framed the Constitution and were instrumental in securing its ratification constituted
the dominant group in the new government formed under it . . . The spokesmen of the Federalist and
Republican parties, Hamilton and Jefferson, were respectively the spokesmen of capitalist and agrarian
interests" (pp. 465–466). In effect, the work on Jeffersonian democracy constituted the third volume of
a trilogy tracing the economic significance of the drafting, adoption, and implementation of the Con-
stitution.

54. See the appendix. Madison in Federalist 59 makes the same point.
55. Article 29 of Part the First. See also Article 30 of the Maryland Constitution.
The fundamental flaw in attributing an economic motive to the drafting of the Constitution lies in Beard’s interpretation, or misinterpretation, of Madison’s concept of the separation of powers as enunciated in *The Federalist*. According to Beard, Madison regarded the principle of the separation of powers as a means of controlling social dissent. As Beard explains, “the attacking forces” (representing “levelling democracy”) would be broken up and disintegrated “at the starting point” by force of the separation of powers and the other constitutional barriers. But even a superficial glance at Madison’s discussion of the separation of powers in *The Federalist*, upon which Beard relies so heavily, reveals that the principle, according to Madison, was designed to prevent tyranny in government and had nothing to do with preventing the tyranny of popular majorities or the socially deprived. As Madison remarks, in words familiar to every political science student:

The accumulation of all powers legislative, executive and judicial, in the same hands, whether of one, a few, or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny. . . . [T]he preservation of liberty requires that the three great departments of power should be separate and distinct. . . . [T]he great security against a gradual concentration of the several powers in the same department, consists in giving those who administer each department the necessary constitutional means and personal motives to resist encroachments of the others. . . . Ambition must be made to counteract ambition. . . . In framing a government which is to be administered

57. An Economic Interpretation, pp. 154, 161.
58. Beard was quite well aware of the true purposes of the separation of powers, as his discussion on pp. 315–316 reveals. Remarkably enough, a host of other scholars have followed Beard in misinterpreting *The Federalist* and in confusing the purposes for which the separation of powers was adopted. Such prominent writers as E. E. Schattschneider in his Party Government (New York, 1942), pp. 7–9; Robert A. Dahl, A Preface to Democratic Theory (Chicago, 1956), p. 31; James MacGregor Burns, *The Deadlock of Democracy* (Englewood Cliffs, N.J., 1963), chap. 1; and Paul Eidelberg, *The Philosophy of the American Constitution* (New York, 1968), p. 153, have all alleged that the separation of powers was instituted so as to check factional majorities. Illustrative is the following extract from the Burns study (pp. 20–21), which echoes Beard even in its choice of terminology:

In these seven words (ambition must be made to counteract ambition) Madison drove straight to the heart of the whole problem; here he showed his genius as a political scientist. For he was not content with a flimsy separation of power that lunging politicians could smash through like paper. He was calling for barricade after barricade against the thrust of a popular majority—and the ultimate and impassable barricade was a system of checks and balances. . . . It was a stunning solution to the Framers’ problem of checking the tyranny of the majority.

For a discussion of the misunderstanding surrounding the purposes of the separation of powers, see George W. Carey, “Separation of Powers and the Madisonian Model: A Reply to the Critics,” *American Political Science Review*, 72 (1978), 151–164. However, Carey fails to appreciate that Beard was in fact the trailblazer and that all the other scholars were merely following in his footsteps in misinterpreting the function of the separation of powers. Carey, of course, was also unaware of the key factor that led to the Beard error—his juxtaposition of two quite unrelated passages of *The Federalist* (see below). At the same time, however, it should be pointed out that Carey’s article fails to take account of what Madison said at the Constitutional Convention on the role of the Senate, which throws a new light on Madison’s intentions (see below).

59. Federalist 47.
by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself.60

There is not a word here about breaking up majorities or controlling social dissent. Only in the last third of Federalist 51 does Madison address himself to social strife, and in this section he makes no reference to the separation of powers. Instead, he reverts to the theme which he had first adumbrated in Federalist 10 on factions, namely, that an expanded republic provides better prospects for conflicting groups in society to cancel one another out. Here is Beard's rendition of Madison's argument juxtaposed against Madison's own words in Federalist 51:

-- Beard

"It is of great importance in a republic not only to guard the society against the oppression of its rulers (by the operation of the separation of powers discussed in the first half of this number of The Federalist), but to guard one part of the society against the injustice of the other part. Different interests necessarily exist in different classes of citizens. If a majority be united by a common interest, the rights of the minority will be insecure. There are but two methods of providing against this evil: the one by creating a will in the community independent of the majority—that is, of the society itself; the other, by comprehending in the society so many separate descriptions of citizens as will render an unjust combination of a majority of the whole very improbable, if not impracticable. The first method prevails in all governments possessing an hereditary or self-appointed authority. . . . The second method will be exemplified in the federal republic of the United States. Whilst all authority in it will be derived from and dependent on the society, the society itself will be broken into so many parts, interests and classes of citizens, that the rights of individuals, or of the minority, will be in little danger from interested combinations of the majority. In a free government the security for civil rights must be the same as that for religious rights. It consists in the one case in the multiplicity of interests, and in the other in the multiplicity of sects. The degree of security in both cases will depend on the number of interests and sects; and this may be presumed to depend on the extent of country and number of people comprehended under the same government. . . . It can be little doubted that if the State of Rhode Island was separated from the Confederacy and left to itself, the insecurity of rights under the popular form of government within such narrow limits would be displayed by such reiterated oppressions of factious majorities that some power altogether independent of the people would soon be called for by the voice of the very factions whose misrule had proved the necessity of it. In the extended republic of the United States, and among the great variety of interests, parties and sects which it embraces, a coalition of a majority of the whole society could seldom take place on any other principles than those of justice and the general good; whilst there being thus less danger to a minor from the will of a major party, there must be less pretext, also, to provide for the security of the former, by introducing into the government a will not dependent on the latter, or, in other words, a will independent of the society itself.

Quite clearly, Beard took liberties with Madison's words in Federalist 51 just as he did with his words in Federalist 10, as Douglass Adair has so effectively demonstrated.62 The italicized phrases in the Beard passage have no basis in Madison's text. Madison made no reference in The Federalist to the structure of government as a means of controlling contending groups in society. This task he left to the natural tendency of society to split into countervailing groups that would neutralize one another. Since he listed only two possible solutions for preventing the injustice of one part of society against the other, it appears obvious that Madison did not regard the separation of powers, discussed earlier by him in this number of The Federalist, as a solution to this problem. Moreover, Madison, clearly enough, was concerned to preserve control of the government by society and to ward off the alternative solution, namely, external control of the reins of government. Nowhere did Madison suggest here the separation of powers as a safeguard for the minority (of property owners) against threats from the (propertyless) majority.

Obviously, Beard was intent on establishing a socioeconomic basis for the provisions of the Constitution that dealt with the structure of government. Given the absence of any evidence in the text of the Constitution itself, he turned to Madison's Federalist 51 to establish such a basis, even if it meant integrating two unconnected passages (one on the structure of government

61. An Economic Interpretation, p. 160; emphasis added.
and the other on the divisions within society). Beard could find no source in *The Federalist* to support his claim that the separation of powers was instituted as an antisocial, antimajoritarian device.

This leads to a fundamental question about Beard's methodology. While his chapter entitled "The Constitution as an Economic Document" is divided into three parts, it is only the first part that need interest us. The second and third parts were in no way revelatory. They dealt respectively with the economic powers granted the federal government, such as the power to tax, and the prohibitions imposed on the states in such matters as paper money and laws impairing the obligation of contracts. Manifestly, these provisions had an economic character, and students of the Constitution did not need Beard to underscore that fact for them. It is only in the first part of his Chapter 6 (pp. 152–164), in which the elements of the governmental system — the separation of powers, for instance — are branded as economically inspired antimajoritarian devices, that Beard challenges accepted doctrines. Yet remarkably enough, in this section of Chapter 6 Beard relied exclusively on *The Federalist* to convict the Founders of economic bias in formulating the new structure of government. It is legitimate to ask: Can *The Federalist*, written after the event, and, moreover, as a propaganda tract, "a piece of special pleading, offered in the rough-and-tumble of partisan politics," really furnish meaningful evidence about the intentions of the Framers at Philadelphia? Chief Justice Marshall, it is true, regarded *The Federalist* as a valuable guide to the meaning of the clauses of the Constitution. But this was before the minutes of the Convention, recorded by Madison (and other participants), were published. However, Madison's notes, once they had appeared, surely could best serve "as a complete commentary on our Constitution" by elucidating the meaning of any given provision and the motives that lay behind its adoption. Reference to *The Federalist* could only be supplementary, at best.

Interestingly enough, Beard himself recognizes the validity of this argument. In the opening words of his chapter entitled "The Constitution as an Economic Document," he says:

> The true inwardness of the Constitution is not revealed by an examination of its provisions as simple propositions of law; but by a long and careful study of the voluminous correspondence of the period, contemporary newspapers and pamphlets, the records of the debates in the Convention at Philadelphia and in the several state conventions, and particularly, *The Federalist*, which was widely circulated during the struggle over ratification.

63. See the introduction by Edward Mead Earle to *The Federalist* (New York, Modern Library), p. xi.

64. Ibid.

Doubltess, the most illuminating of these sources on the economic character of the Constitution are the records of the debates in the Convention, which have come down to us in fragmentary form; and a thorough treatment of material forces reflected in the several clauses of the instrument of government created by the grave assembly at Philadelphia would require a rewriting of the history of the proceedings in the light of the great interests represented there. But an entire volume would scarcely suffice to present the results of such a survey, and an undertaking of this character is accordingly impossible here.

This explanation is not convincing. It is particularly puzzling that Beard could have found it easier to wade through voluminous quantities of dusty records in the basement of the U.S. Treasury in search of the Framers' motives than to leaf through the actual minutes of the Convention, conveniently published by Farrand only two years earlier in three handy volumes, complete with an index! Moreover, in other parts of his book, Beard refers quite extensively to the Farrand volumes, just as he does in his work on the Supreme Court published a year earlier in 1912. In fact, the chapter entitled "The Political Doctrines of the Members of the Convention" in his book on the Constitution is based almost exclusively on Farrand's *Records*. Indeed, Beard, in the opening of the chapter, highlights the importance of these volumes for revealing the intentions of the Framers.

Happily for science, the proceedings at Philadelphia during the drafting of the Constitution were secret, and they were able to discuss with utmost frankness the actual politico-economic results which they desired to reach. Fortunately, also, fragmentary reports of these proceedings have come down to us, and have been put in a definitive form by Professor Farrand.

It is strange, therefore, that Beard should have eschewed using the *Records* to establish his case on the design of the government instituted under the Constitution and should instead have relied on the far inferior source, namely, the polemics of *The Federalist*. It is submitted, however, that Beard in fact

65. *An Economic Interpretation*, pp. 152–153. This disclaimer, however, did not prevent Beard from asserting in a footnote: "From this point of view, the old conception of the battle at Philadelphia as a contest between small and large states — as political entities — will have to be severely modified" (n. 1). Beard's thesis on the primacy of economic factors in shaping the structure of government led him to discount accepted interpretations of the controversies that marked the debates at Philadelphia, even though he frankly acknowledged he was not prepared to draw on the minutes themselves. A review of the Convention records would seem to establish that the large-state/small-state controversy was, in fact, central to the discussions and affected the drafting of many more provisions than that of the Senate alone. See, for example, Shlomo Slonim, "The Electoral College at Philadelphia: The Evolution of an Ad Hoc Congress for the Selection of a President," *Journal of American History*, 73 (1986), 35–58.

66. Beard writes that he was able to use some of the records "only after a vacuum cleaner had been brought in to excavate the ruins" (An Economic Interpretation, p. 22, n. 1).

67. Beard cites Farrand no less than sixty-eight times in this chapter alone.

68. *An Economic Interpretation*, p. 190.
deliberately declined to use the original source, the actual Records of the
Convention, since these did not support the particular thesis that he was
presenting regarding the role of personality in instituting a constitution that
would serve as a "foil against the attacks of levelling democracy." 60
Concern over property was clearly in evidence during the constitutional debates at
Philadelphia, 61 and the delegates were not slow or timid in imposing
categorical restrictions on the states in such spheres as the regulation of legal
tender and laws impairing the validity of contracts. 71 But Beard's thesis
regarding the centrality of property, and most especially personality, at Phil-
adelphia went beyond the restrictions on the states. He claimed that the
very structure of the federal government — separation of powers, checks and
balances, etc. — had an essentially economic motive. Beard insisted that "the
framework of government" was formed "under the pressure of economic
interests." 72 But in the Convention's discussions on the organs of government,
concern over property, while clearly in evidence, was far from being central
in the debate; and when such concern did surface, as in the discussion on
the formation of the Senate, it related to real property rather than to per-
sonality. All this emerges quite clearly from Madison's remarks at the Con-
vention on the subject of a suitable term of office for members of the Senate,
quoted here at length, in both his own version and in that of Yates:

In order to judge of the form to be given to this institution, it will be proper to take a view
of the ends to be served by it. These were first to protect the people agst. their rulers: secondly
to protect (the people) agst. the transient impressions into which they themselves might be
led. A people deliberating in a temperate moment, and with the experience of other nations
before them, on the plan of Gov't. most likely to secure their happiness, would first be aware,
that those charged with the public happiness, might betray their trust. An obvious precaution
agst. this danger wd. be to divide the trust between different bodies of men, who might
watch & check each other. In this they wd. be governed by the same prudence which has
prevailed in organizing the subordinate departments of Gov't. where all business liable to
abuses is made to pass thro' separate hands, the one being a check on the other. It wd. next
occur to such a people, that they themselves were liable to temporary errors, thro' want of
information as to their true interest, and that men chosen for a short term, & employed but
a small portion of that in public affairs, might err from the same cause. This reflection wd.
naturally suggest that the Gov't. be so constituted, as that one of its branches might have

60. Ibid., p. 154.
61. See the listings under the heading "Property" in the index of the Farrand volumes.
62. Article I, Section 10 of the Constitution
71. An Economic Interpretation, p. 153. In Beard's words, the constitutional system
"consisted of two fundamental parts — one positive, the other negative: I. A government endowed with
certain positive powers, but so constructed as to break the force of majority rule and prevent invasions
of the property rights of minorities. II. Restrictions on the state legislatures which had been so vigorous
in their attacks on capital." (p. 154.)

an oppy. of acquiring a competent knowledge of the public interests. Another reflection
equally becoming a people on such an occasion, wd. be that they themselves, as well as a
numerous body of Representatives, were liable to err also, from fickleness and passion. A
necessary fence agst. this danger would be to select a portion of enlightened citizens, whose
limited number, and firmness might seasonably interpose agst. impetuous counsels. It ought
finally to occur to a people deliberating on a Gov't. for themselves, that as different interests
necessarily result from the liberty meant to be secured, the major interest might under sudden
impulses be tempted to commit injustice on the minority. In all civilized Countries the people fall into different classes hav. a real or supposed difference of interests. There will
be creditors & debtors, farmers, merchs. & manufacturers. There will be particularly the
distinction of rich & poor. It was true as had been observed. (by Mr. Pinkney) we had not
among us those hereditary distinctions, of rank which were a great source of the contests in the
ancient Govts. as well as the modern States of Europe, nor those extremes of wealth or
poverty which characterize the latter. We cannot however be regarded even at this time, as
one homogeneous mass, in which every thing that affects a part will affect in the same manner
the whole. In framing a system which we wish to last for ages, we shd. not lose sight of the changes
which ages will produce. An increase of population will of necessity increase the proportion of those who
will labour under all the hardships of life, & secretly sigh for a more equal distribution of its blessings.
These may in time outnumber those who are placed above the feelings of indignation. According to the
equal laws of suffrage, the power will slide into the hands of the former. No agrarian attempts have
yet been made in this Country, but symptoms of a levelling spirit, as we have understood, have sufficiently
appeared in a certain quarters [sic] to give notice of the future danger. How is this danger to be guarded
agst. on republican principles? How is the danger in all cases of interested co-alitissions to oppress
the minority to be guarded agst.? Among other means by the establishment of a body in the Gov't.
sufficiently respectable for its wisdom & virtue, to aid on such emergencies, the preponderance of justice
by, throwing its weight into that scale. Such being the objects of the second branch in the proposed Gov't.
he thought a considerable duration ought to be given to it. 73

In Yates's minutes, Madison's comments are recorded as follows:

Mr. Madison. We are now to determine whether the republican form shall be the basis of
our government — I admit there is weight in the objection of the gentlemen from South
Carolina [Pinckney]; but no plan can steer clear of objections. That great powers are to be
given, there is no doubt; and that those powers may be abused is equally true. It is also

[sic] classes into which our citizens were divisible, were the landed the commercial, & the
manufacturing. The 2d. & 3d. class [sic], bear as yet a small proportion to the first. The proportion
however will daily increase. We see in the populous Countries in Europe now, what we shall be hereafter." (Ibid., II, 124.)

Charles Pinckney, delegate from South Carolina, divided the people of the United States into three
different classes: (1) professional men, (2) commercial men, and (3) "The landed interest, the owners
and cultivators of the soil, who are and ought ever to be the governing spring in the system." Of the
commercial class Pinckney said: "If that commercial policy is pursued which I conceive to be the true one,
the merchants of this Country will not or ought not for a considerable time to have much weight
in the political scale." Farrand, Records, I, 402, 411. See also on the primacy of the "landed class"
Hamilton in Federalist 60.
probable that members may lose their attachments to the states which sent them – Yet the first branch will control them in many of their abuses. But we are now forming a body on whose wisdom we mean to rely, and their permanency in office secures a proper field in which they may exert their firmness and knowledge. Democratic communities may be unstable, and be led to action by the impulse of the moment. – Like individuals they may be sensible of their own weakness, and may desire the councils and checks of friends to guard them against the turbulency and weakness of unruly passions. Such are the various pursuits of this life, that in all civilized countries, the interest of a community will be divided. There will be debtors and creditors, and an unequal possession of property, and hence arise different views and different objects in government. This indeed is the ground-work of aristocracy; and we find it blended in every government, both ancient and modern. Even where titles have survived property, we discover the noble beggar haughty and assuming.

The man who is possessed of wealth, who lives on his sofa or rolls in his carriage, cannot judge of the wants or feelings of the day laborer. The government we mean to erect is intended to last for ages. The landed interest, at present, is presulent; but in process of time, when we approximate to the states and kingdoms of Europe, when the number of landholders shall be comparatively small, through the various means of trade and manufactures, will not the landed interest be overbalanced in future elections, and unless wisely provided against, what will become of your government? In England, at this day, if elections were open to all classes of people, the property of the landed proprietors would be insecure. An agrarian law would soon take place. If these observations be just, our government ought to secure the permanent interests of the country against innovation. Landholders ought to have a share in the government, to support these insubstantial interests and to balance and check the other. They ought to be so constituted as to protect the minority of the opulent against the majority. The senate, therefore, ought to be this body; and to answer these purposes, they ought to have permanency and stability. Various have been the propositions; but my opinion is, the longer they continue in office, the better will these views be answered. 74

74. Farrand, Records, I, 430–431 (emphasis added). The delegates frequently referred to the Senate as the “aristocratic” body in the legislature, designed to restrain or balance the turbulent lower or “democratic” house. Since the Senate was meant to represent and protect “wealth,” there was even a suggestion that membership therein be conditional on the ownership of considerable property. The proposal was rejected, as was a suggestion that senators not be paid a salary, to encourage only the wealthy to submit their candidacy. Ibid., pp. 424–427, 433–434, 512–514, 517–518, 562.

Designation of the lower house as the “democratic” one and the upper house as the “aristocratic” body accorded with the widely accepted notion, popularly espoused by John Adams, that the only sound government was a balanced one reflecting the three elements – democracy, aristocracy, and monarchy (the executive). Confirmation of the measure of influence which Adams’ theory of government exercised at the Convention can be gleaned from the following letter sent by Benjamin Rush to Richard Price in the first week of the deliberations: “Mr. Adams’s book [Defense of the Constitutions of Government of the United States of America] has diffused such excellent principles among us, that there is little doubt of our adopting a vigorous and compound federal legislature. Our illustrious minister in this respect to his country has done us more service than if he had obtained alliances for us with all the nations of Europe.” (Farrand, Records, III, 33.)

For further discussion of this topic, see Wood, The Creation of the American Republic, chap. 14: “The Relevance and Irrelevance of John Adams.”


75. An agrarian law in Madison’s terms clearly means a law for “the equal division of land,” which is, of course, to be distinguished from a debtor law.

76. Beard, An Economic Interpretation, p. 188. Cf. Brown, The Career of the Constitution, pp. 94–95, who also makes this point.
but from the challenge of personality ("trade and manufactures"). This is precisely the opposite of Beard’s thesis, according to which personality was the driving force behind the adoption of the Constitution. Instead of campaigning on behalf of personality against reality, Madison is bent on preserving the influence and status of reality. Little wonder that Beard found it inopportune to advert to the records of the Philadelphia convention. Madison’s comments at Philadelphia on the subject of property not only fail to corroborate Beard’s interpretation; they contradict it. As a result, they could not be cited.

But why, indeed, was Beard so insistent on interpreting the struggle for the Constitution as one of personality versus reality, “capital as opposed to land”? Would it not have been sufficient for him to assert that the Convention was committed to protecting property, without seeking to distinguish between one species of property and another? For, as Richard Hofstadter has commented, both radicals and conservatives were then in agreement that government should protect property, and few would have taken issue with Beard on this point. Why was the dichotomy of personality versus reality of such fundamental importance for Beard’s thesis? The answer, it is suggested, lies in an appreciation of Beard’s real aim.

Numerous writers, and particularly Max Lerner, Morton White, Douglass Adair, and Richard Hofstadter, have noted Beard’s debt to Marxist thought. Interestingly enough, Beard does not refer to Marx or to Marxist writings, even in a footnote. Only in his introduction to the 1935 edition, in the course of denying that his work was derived from “Marxian theories,” does Beard acknowledge that when he wrote his book on the Constitution he was “in common with all students . . . in modern history conversant with the theories and writings of Marx.” Given the nature of his study — an analysis of the Constitution based on concepts of economic determinism — it is odd, to say the least, that Beard found not a single occasion to refer to Marx. However, in propounding his thesis of economic determinism (as reflected in Madison’s Federalist 10), Beard relies heavily on a book by Edwin Se-
social progress in general is the result of contending interests in society—
some favorable, others opposed, to change. 87

There is not a word about "social progress" in Madison or that such
progress is the result of contending interests in society, that is, the class
struggle. In contrast, Beard posited a dynamic interaction between the
divisions in society as an essential condition for producing "social progress."
This concept is, of course, in the classical Marxist tradition. While it is
alien to Madison's theories (he, in fact, deplored the existence of factions),
it is intrinsic to those of Marx. 88 It is drawn from the dialectic
interpretation of history as reflected, for instance, in the opening words of The
Communist Manifesto: "The history of all hitherto existing society is the history of class
struggles." 89 And, in the words of Engels:

In every historical epoch, the prevailing mode of economic production and exchange, and
the social organisation necessarily following from it, form the basis upon which is built up,
and from which alone can be explained, the political and intellectual history of that epoch;
that consequently the whole history of mankind . . . has been a history of class struggles,
conflicts between exploiting and exploited, ruling and oppressed classes; that the history of
these class struggles forms a series of evolution. 90

If Beard found Marx (on economic determinism) in Madison, it is likewise
easy enough to find Marx (on the dialectical interpretation of history) in
Beard. History is an unfolding of progressive stages in the social development
of mankind resulting from the class struggle which manifests itself in each
age. Given this perspective on Beard's thinking, it is not difficult to
understand his particular appreciation of the Constitutional Convention in the
dialectical time chart of history and his obsession with personality as against
reality. The word "personality" is a euphemism for the bourgeoisie, for, as
he says, it was composed of these four groups: money, public securities,

87. Ibid., p. 19.

88. As noted by Morton White, Marx acknowledged: "No credit is due to me for discovering the
existence of classes in modern society nor yet the struggle between them. Long before me bourgeois
historians had described the intellectual development of this class struggle . . . What I did that was
new was to prove . . . that the existence of classes is only bound up with particular, historic, phases in the
development of production." Emphasis in original. Karl Marx and Friedrich Engels: Correspondence, 1846–

Hofstadter points out that the notion of "progress" as a product of the economic interpretation of
history is fundamental in Seligman, upon whom Beard relied so heavily (The Progressive Historians, p.
200).


90. Ibid., preface by Engels, p. 6.

trade and shipping, and manufacturing. 91 Beard was, in fact, portraying the
Constitutional Convention as one of the revolutionary stages in the dialectic
of history: the revolt of the bourgeoisie against the landed aristocracy—the
"landed proprietors," as Beard labeled them. 92 Had Beard resorted to Marxist
terminology, his thesis would have been discounted from the start. It was only by
"wrapping himself in the American flag" and revealing Marx in
Madison under a more neutral terminology that he was able to promote the
radical thesis he was enunciating on the purpose of the Constitution as "an
instrument of class exploitation." 93 The secret of Beard's success was his ability
to portray his economic thesis as a distinctively American contribution to
political science. But, at base, Beard's economic interpretation was a
classical Marxist interpretation—personality (bourgeoisie) as against reality
(gentry). 94 For Beard, the Constitutional Convention was simply a stage in
the "social progress" effected by the dialectic of history.

91. An Economic Interpretation, pp. 16–17, 31–31, 63, 324. The Communist Manifesto refers to the
bourgeoisie as "the manufacturing middle class" involved in "commerce," "navigation" and "industry"
(p. 10).

92. Beard, An Economic Interpretation, p. 28. Note that in discussing the funding of the public
securities by the new government after adoption of the Constitution, Beard refers to this act as "the first
really great achievement of nascent capitalism in the United States" (p. 21, emphasis added). In his work
Economic Origins of Jeffersonian Democracy, Beard was quite candid in depicting the Constitution as "the
product of a conflict between capitalist and agrarian interests . . . . The capitalistic interests whose
rights were especially safeguarded by the Constitution had been harried almost to death, during the few
years preceding the adoption of the Constitution. . . . In the contest for the Constitution, they formed
the aggressive party, and though a minority of the nation, they were able to wring from the reluctant
voters a ratification of the new instrument of government." (pp. 464–465.)

It should also be noted that in his conclusions (An Economic Interpretation, p. 325), Beard omits any
reference to the landed aristocracy. The struggle for and against the Constitution becomes one purely of
"substantial personality interests on the one hand and the small farming and debtor interests on the
other." This is not sufficient to cancel the lines of analysis presented in the body of his study and summed
up in his terse phrase: "In short, [it was] capital as opposed to labor" (p. 63).

'master theory' merely revealed him [Madison] as a writer who was indiscernent enough to reveal in the
Tenth Federalist the grinning death's head of economic exploitation concealed behind the decorous and
misleading phrases of the Constitution" (ibid., p. 62).

94. In saying that Beard's economic interpretation of the Constitution is at base Marxist, of course,
it is not suggested that his interpretation was completely Marxist. As Max Lerner (Ideas Are Weapons,
p. 160–162) and Morton White (Social Thought in America, pp. 121–125), have pointed out, Beard,
while presenting a Marxist line of argument, nevertheless diverged in several crucial ways from orthodox
Marxist theory. What is suggested here is that in stressing personality above all other property as the
driving force behind the Constitution (an issue which, as noted, some of the foregoing writers adverted to
but never sought to explain), Beard is attempting to place the Convention in the dialectic time chart
of history as the American counterpart of the rise of the bourgeoisie. In this respect, Beard's approach
was clearly Marxist and not Madisonian.

An interesting paradox in Beard's writing was highlighted by Robert E. Thomas, in "A Reappraisal
CONCLUSIONS

Beard’s thesis on the economic significance of the Constitution is composed, essentially, of two parts. The first part is devoted to establishing the economic interests of the Framers and to demonstrating that they represented a distinct economic group in society: personality. The second part relates to the manner in which this economic interest was translated into the drafting of the provisions of the Constitution. The result was an instrument of government so structured as to shatter the electoral demands of the masses. Various writers, most notably McDonald and Brown, have challenged Beard’s conclusions regarding the economic interests of the Founding Fathers and of those who opposed them in the debate on the adoption of the Constitution. Likewise, Cecelia Kenyon disputed Beard’s claim that the Anti-Federalists were more democratic than the Federalists. The present paper focuses on the second part of the Beardian thesis by questioning the economic nature of the structure of the Constitution through an examination of its antecedents. According to Beard, the assembly that gathered at Philadelphia in 1787 was engaged in a giant conspiracy to foist onto the American people a constitution that would secure the property interest of the conspirators. To this end, they produced a series of devices in government, such as the separation of powers, and checks and balances to break the force of majority demands.

Upon examination, however, it becomes clear that every feature of the federal Constitution that Beard lists as an antimagitarian device already existed in the state constitutions in one form or another. The federal Constitution, in fact, represented a composite of various practices instituted in the states for securing representative republican government. Drawing their inspiration from the writings of political philosophers, the Framers designed these measures, as Madison made clear in The Federalist, to forestall tyranny in government. The onus was clearly on Beard to demonstrate that the Founders, in introducing these various features into the federal system of government, intended to “break the force of majority rule and prevent invasions of the property rights of minorities.” This he failed to do. Instead, he adopted an a priori argument based on the economic interests of the delegates to the Philadelphia Convention. The economic interests of the Framers were never persuasively linked with the provisions of the Constitution on the framework of government. Rather, Beard assumed what he had undertaken to prove.

But Beard’s analysis of the provisions of the Constitution on the structure of government is open to challenge on a yet more fundamental basis. He omitted to utilize the one unimpeachable source that could establish the clear motives of the Framers: the records of the Constitutional Convention. In lieu of this, he sought to extract from The Federalist the evidence he needed to convict the Founding Fathers of economic bias in the drafting of the provisions of the Constitution on the structure of government. First, he cited
Madison’s *Federalist* 10, which discusses the causes for divisions within society, primarily economic. He then adduced *Federalist* 51, which ostensibly provides a blueprint of government for controlling those diverse elements to protect property interests of the minority. But this is a distortion of Madison’s thesis, since nowhere in *Federalist* 51 does Madison assign a role to the instruments of government for checking fractious majorities. This task he left to the expanse of territory and the multiplicity of contending groups that it would produce, groups that would tend to neutralize one another. Had Beard turned to Farrand, he would have found clear-cut evidence of a socioeconomic motive, at least on the part of Madison, in the formulation of the Senate. Beard does not cite this source, since it does not support his thesis regarding the centrality of personality at Philadelphia. Indeed, it contradicts his thesis. Rather than evidencing concern over the fate of personality, Madison was at pains to preserve the influence of reality in the face of the challenge from personality. At all events, personality was certainly not at the center of the deliberations at the Constitutional Convention. This raises the question of why Beard was so obsessed with the role of personality, as opposed to property generally, in the adoption of the Constitution. For there is no doubt that the protection of property seriously exercised the delegates to the Convention.

The explanation lies in the Marxist roots of Beard’s thesis. He saw in the work of the Constitutional Convention the hand of dialectical materialism. It was a distinct stage in the progressive march of history. If America did not need to cast off the shackles of feudalism, it nonetheless had to proceed through the stages of economic development. In accordance with the Marxist principle of economic determinism, the growing commercial and industrial classes were supposed to seize the reins of power from the landed proprietor and formulate an instrument of government to serve their needs. What Beard labeled personality was nothing other than the bourgeoisie. In Europe the contest pitted the bourgeoisie against the aristocracy, in America it was a case of personality as distinguished from reality, or “capital as opposed to land.”

96. *An Economic Interpretation*, p. 63. Cf. the following comment made by Beard in 1916 in a series of lectures at Amherst College: “In the United States where there was no clerical estate or established nobility to be represented in the government, the existence of the two fundamental property groups — the owners of real estate and the owners of personality — was taken into account either in positive constitutional law or in the check and balance system provided by the separation of powers.” In a footnote appended at this point Beard says: “Much ingenuity has been spent by American lawyers in elaborating the theoretical fictions of Montesquieu. The real significance of the separation of powers and its relation to the balance of class interests in society was appreciated by eighteenth century writers.”

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constitutional revolution was engineered by personality. He sought to establish his case by the circumstantial evidence derived from the economic holdings of the Framers rather than by drawing on their actual words at the Convention, which did not coincide with and indeed contradicted his thesis. Beard resorted to *The Federalist*, even at the cost of adjusting Madison’s arguments; and for this reason he abjured drawing on the constitutional records themselves.

In all the extended debate that has ensued since Beard’s study on the Constitutional Convention first appeared, the flaws in his methodology noted above somehow escaped the attention of even his severest critics. Any attempt in this bicentennial season to resuscitate the Beardian analysis of the structure of government adopted at Philadelphia must address itself to the question of whether Beard’s views were not stamped with an ideological bias that led to selective and tendentious use of the evidence upon which his thesis was purportedly based. No one doubts that the movement for drafting a new constitution at Philadelphia was informed by, among other factors, concern over the state of the national economy and by a desire also to secure property interests — objectives as eagerly sought by the leading Anti-Federalists as by the Federalists. But it is one thing to recognize the Founders’ desire to ensure the rights of property under the Constitution, in common with other rights, and it is another thing to attribute the very structure of government to a desire to serve a particular form of property by hamstringing popular rule. Beard, it must be recognized, never did succeed in establishing that the primary impulse which engendered the American system of government was antidemocratic and antimajoritarian.

Basis of Politics (London, 1935), pp. 69–70.) This comment on the nature of the American constitutional system and the reference to “the theoretical fictions of Montesquieu” sum up Beard’s assessment of the Framers’ purposes in establishing a system of government based on the separation of powers.
<table>
<thead>
<tr>
<th>State</th>
<th>Year of Adoption of Constitution</th>
<th>Form of Adoption of Constitution</th>
<th>Separation of Powers Clause</th>
<th>Bicameralism</th>
<th>Mode of Election &amp; Term of Legislature</th>
<th>Staggered Elections</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Lower House</td>
<td>Upper House</td>
</tr>
<tr>
<td>Delaware</td>
<td>1776</td>
<td>Convention</td>
<td>no</td>
<td>yes</td>
<td>popular; 1</td>
<td>popular; 3</td>
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<tr>
<td>Georgia</td>
<td>1777</td>
<td>Convention</td>
<td>yes; Art. I</td>
<td>no</td>
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<tr>
<td>Maryland</td>
<td>1776</td>
<td>Convention</td>
<td>yes; Art. VI</td>
<td>yes</td>
<td>popular; 1</td>
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<tr>
<td>Massachusetts</td>
<td>1780</td>
<td>Convention &amp; ratification by people</td>
<td>yes; Art. XXX, Part the First</td>
<td>yes</td>
<td>popular; 1</td>
<td>popular; 1</td>
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<tr>
<td>New Hampshire</td>
<td>1784</td>
<td>Convention &amp; ratification by people</td>
<td>yes; Art. XXXVII</td>
<td>yes</td>
<td>popular; 1</td>
<td>popular; 1</td>
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<tr>
<td>New Jersey</td>
<td>1776</td>
<td>Convention</td>
<td>no</td>
<td>yes</td>
<td>popular; 1</td>
<td>popular; 1</td>
</tr>
<tr>
<td>New York</td>
<td>1777</td>
<td>Convention</td>
<td>no</td>
<td>yes</td>
<td>popular; 1</td>
<td>popular; 4</td>
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<tr>
<td>North Carolina</td>
<td>1776</td>
<td>Convention</td>
<td>yes; Art. IV</td>
<td>yes</td>
<td>popular; 1</td>
<td>popular; 1</td>
</tr>
<tr>
<td>Pennsylvania</td>
<td>1776</td>
<td>Convention</td>
<td>no</td>
<td>no</td>
<td></td>
<td></td>
</tr>
<tr>
<td>South Carolina</td>
<td>1776</td>
<td>Provincial congress of state</td>
<td>no</td>
<td>yes</td>
<td>popular; 2</td>
<td></td>
</tr>
<tr>
<td>South Carolina</td>
<td>1778</td>
<td>Act of legislature</td>
<td>no</td>
<td>yes</td>
<td>popular; 2</td>
<td></td>
</tr>
<tr>
<td>Virginia</td>
<td>1776</td>
<td>Convention</td>
<td>yes; Sec. 5</td>
<td>yes</td>
<td>popular; 1</td>
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APPENDIX (continued).

<table>
<thead>
<tr>
<th>State</th>
<th>Year of Adoption of Constitution</th>
<th>Made of Election of Governor</th>
<th>Term of Office of Governor</th>
<th>Rotation of Governor's Office</th>
<th>Governor's Vet</th>
<th>Mode of Appointing Judges</th>
<th>Term of Judges</th>
<th>Money Bills</th>
<th>Amendment Procedure</th>
</tr>
</thead>
<tbody>
<tr>
<td>Delaware</td>
<td>1776</td>
<td>Joint ballot of legislature</td>
<td>3 yrs.</td>
<td>yes</td>
<td>Governor and legislature</td>
<td>Good behavior</td>
<td>Originate in lower house, amendments in upper house</td>
<td>5/7 majority of lower house, 7/8 of upper house</td>
<td></td>
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<tr>
<td>Georgia</td>
<td>1777</td>
<td>Legislature</td>
<td>1 yr.</td>
<td>yes</td>
<td></td>
<td></td>
<td></td>
<td>By special convention upon petition of majority of voters in majority of counties</td>
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<tr>
<td>Maryland</td>
<td>1776</td>
<td>Joint ballot of legislature</td>
<td>1 yr.</td>
<td>yes</td>
<td>Governor with advice of council</td>
<td>Good behavior</td>
<td>Originate in lower house</td>
<td>Proposal by one legislature to be confirmed by succeeding legislature</td>
<td></td>
</tr>
<tr>
<td>Massachusetts</td>
<td>1780</td>
<td>Popular; if no majority by Senate from top 2 nominated by House of Representatives</td>
<td>1 yr.</td>
<td>no; 2/3 legislature override</td>
<td>Governor with advice of council</td>
<td>Good behavior but removable</td>
<td>Originate in lower house, amendments in Senate</td>
<td>Convention to be convened in 1793 if requested by 2/3 of voters</td>
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</tr>
<tr>
<td>New Hampshire</td>
<td>1784</td>
<td>Popular; if no majority by Senate from top 2 nominated by House of Representatives</td>
<td>1 yr.</td>
<td>no</td>
<td>President (gov.) and council</td>
<td>Good behavior but removable</td>
<td>Originate in lower house, amendments in Senate</td>
<td></td>
<td></td>
</tr>
<tr>
<td>State</td>
<td>Year of Adoption of Constitution</td>
<td>Mode of Election of Governor</td>
<td>Term of Office of Governor</td>
<td>Rotation of Governor's Office</td>
<td>Mode of Appointing Judges</td>
<td>Term of Judges</td>
<td>Money Bills</td>
<td>Amendment Procedure</td>
<td></td>
</tr>
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<td></td>
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<tr>
<td>New Jersey</td>
<td>1776</td>
<td>Joint session of legislature</td>
<td>1 yr.</td>
<td>no</td>
<td>Joint ballot of legislature</td>
<td>7 yrs.</td>
<td>Cannot be amended by upper house</td>
<td>Act of legislature</td>
<td></td>
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<tr>
<td>New York</td>
<td>1777</td>
<td>Popular</td>
<td>3 yrs.</td>
<td>no</td>
<td>Governor in council but 2/3 legislature override</td>
<td>Appointments council of legislature with governor presiding</td>
<td>Good behavior but retirement at 60</td>
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<td></td>
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<tr>
<td>North Carolina</td>
<td>1776</td>
<td>Joint session of legislature</td>
<td>1 yr.</td>
<td>yes</td>
<td>Joint ballot of legislature</td>
<td>Good behavior</td>
<td></td>
<td></td>
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<tr>
<td>Pennsylvania</td>
<td>1776</td>
<td>Joint ballot of legislature and council</td>
<td>1 yr.</td>
<td>yes</td>
<td>President and council</td>
<td>7 yrs.</td>
<td>Special convention after publication of proposal by council of censors</td>
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<tr>
<td>South Carolina</td>
<td>1776</td>
<td>Joint ballot of legislature</td>
<td>2 yrs.</td>
<td>no</td>
<td>Absolute</td>
<td>Good behavior but removable</td>
<td>Can only be accepted or rejected by upper house</td>
<td>By legislature</td>
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<tr>
<td>South Carolina</td>
<td>1778</td>
<td>Joint ballot of legislature</td>
<td>2 yrs.</td>
<td>yes</td>
<td>None</td>
<td>Good behavior but removable</td>
<td>Can only be accepted or rejected by upper house</td>
<td>By legislature after 90 days' notice</td>
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<tr>
<td>Virginia</td>
<td>1776</td>
<td>Joint ballot of legislature</td>
<td>1 yr.</td>
<td>yes</td>
<td>Joint ballot of legislature</td>
<td>Good behavior</td>
<td>All bills originate in lower house; money bills accepted or rejected by upper house, no possibility of amendments</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>