

## BOOK REVIEWS

1787: THE GRAND CONVENTION. By Clinton Rossiter. New York: The Macmillan Company, 1966. Pp. 443. \$7.95.

The Constitutional Convention of 1787 is, the author states, "the supreme event in the life of the American people . . . . It is in the nature of a memorable event that it must be restudied and retold by each generation . . . ." And the convention of 1787 was, he states, "an event about whose nature, meaning, origins, purposes, staging, techniques, cast of characters, and consequences men have been speculating in print ever since it was first recognized as history (as early, it would appear, as 1789), and about which they will continue to speculate until the end of the Republic—and perhaps, if History is still being written after that calamity, until the end of recorded time."<sup>1</sup>

In the nineteenth century the adoption of the Constitution was viewed as an act of divine providence which rescued the American people and their republican principles from the chaos and catastrophe which ensued under the Articles of Confederation. The Founders were seen as Olympian superstatesmen, motivated solely by selfless idealism and undefiled patriotism. This was basically the interpretation advanced by such eminent constitutional historians as George Bancroft and George Tickner Curtis, whose works, I hasten to add, are still highly valuable as rich storehouses of factual information. Perhaps the best-known and most widely read work of this early period was John Fiske's *The Critical Period of American History, 1783-1789* (1888).

Early in this century Charles A. Beard published *An Economic Interpretation of the Constitution of the United States* (1913), probably the single most influential book yet written on the Founders and the adoption of the Constitution. Beard's thesis was that the movement for a new government and the drafting and ratification of the Constitution were engineered by a small group of public securities holders to protect their investments. The economic approach quickly became the fashion and Beard's narrow thesis was expanded. Colonial society was interpreted as divided between an

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<sup>1</sup> ROSSITER, 1787: THE GRAND CONVENTION 11, 13 (1966).

aristocracy of wealth and power and lower classes composed of the politically and economically dispossessed. The American Revolution was seen in a dual capacity—as a war for independence from Britain and a simultaneous domestic revolt by the have-nots. The Articles of Confederation and the new state constitutions fell into place as expressions of the internal democratic upheaval, which was unwilling to replace one strong central government with another and instead sought refuge and protection in the smaller compass of sovereign states with strong legislatures and weak governors. Between 1783 and 1787 the country moved ahead energetically in all areas. Under this interpretation, the Constitution was viewed as an instrument of reaction through which men of position and property sought to retain and perpetuate their political and economic dominance. Leading works supporting one or more of these interpretations are J. Franklin Jameson, *The American Revolution Considered as a Social Movement* (1926); Merrill Jensen, *The Articles of Confederation* (1940) and *The New Nation* (1950); and Elisha P. Douglass, *Rebels and Democrats* (1955). Less scholarly critics portrayed the Founders as conspirators and the Constitution as a *coup d'état*.

Recent research and scholarship have challenged and undermined the Beardian concept. Beard's book itself has been virtually demolished as historical scholarship by the devastating analysis of Robert E. Brown in *Charles Beard and the Constitution* (1956) and the painstaking research within Forrest McDonald's *We the People* (1958). Other works have re-examined colonial society, the Revolution and the period which followed. Benjamin F. Wright's *Consensus and Continuity, 1776-1787* (1958) is a good exposition of the political and historical legitimacy of the Constitution. Two brilliant articles—"The Founding Fathers: Young Men of the Revolution"<sup>2</sup> by Stanley Elkins and Eric McKittrick and "The Founding Fathers: A Reform Caucus in Action"<sup>3</sup> by John P. Roche—have rescued the framers from academic disrepute and refurbished their reputations handsomely and realistically. An excellent summary of the result of the recent scholarship is Robert E. Brown's *Reinterpretation of the Formation of the American Constitution* (1963).

The revised perspective of the men and the event is reflected

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<sup>2</sup> 76 POL. SCI. Q. 181 (1961).

<sup>3</sup> 55 AM. POL. SCI. REV. 799 (1961).

in the book under review, which is the first major, full-length study of the Constitutional Convention in almost twenty years. Earlier studies—Max Farrand's *The Framing of the Constitution* (1913), Charles Warren's *The Making of the Constitution* (1928), and Carl Van Doren's *The Great Rehearsal* (1948) were and still are useful and rewarding works. I believe, however, that Professor Rossiter's new volume is the most readable, informative, and perceptive—in short, the best—book on the Convention yet written.

Professor Rossiter states his opinion of the economic school as follows:

Millions of words have been written, and at least a million more are even now laboring their way into print, about the economic, social, and political make-up of the two camps in the struggle over ratification: the friends and the enemies of the Constitution in the conventions and among the people at large. Rather than add a superfluous ten or twenty thousand of my own, let me say simply that the evidence we now have leads most historians to conclude that no sharp economic or social line can be drawn on a nationwide basis between these two camps, and that it most certainly was not—neither in the subtle Beardian nor the vulgar Marxist sense—a contest between the haves and the have-nots of post-Revolutionary America.<sup>4</sup>

In Rossiter's engaging narrative, the Founders are depicted as men endowed with a happy combination of political idealism and practical wisdom grounded solidly in experience, motivated by ambition both for themselves and their country, and with a conviction that both ambitions could best be realized under a considerably stronger national government. Desirous of preserving the best institutions of their present, they were nonetheless willing to innovate for the future. The result of their proposals, their debates, and their compromises was a document both conservative and progressive, creating ample strength at the center with latitude for more if necessary, subordinating the states without relegating them to insignificance—all in all, the best document possible which could move America forward and still be acceptable to the great mass of the people. One outstanding characteristic of the new charter was the amount of decision-making and interpretation left for future generations to work out for themselves.

The result is described by Rossiter as follows:

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<sup>4</sup> ROSSITER, *op. cit. supra* note 1, at 294-95.

Well and truly framed, the Constitution has also been . . . well and imaginatively interpreted. It does more than live through the crises of the twentieth century as a venerated fossil; it thrives upon them . . . as a self-renewing instrument of ordered liberty. And it thrives because . . . it is interpreted largely in the way Hamilton proposed and both Washington and Marshall agree it would have to be interpreted if the Union were to endure and prosper: as the indulgent charter of a sovereign nation empowered to defend itself vigorously against all foreign enemies and to come to grips creatively with all domestic problems.<sup>5</sup>

The book is traditional in organization—the situation which existed in the 1780s, the available alternatives, biographical sketches of the delegates, an analytical synopsis of the proceedings in the Convention and a summary of the ratification in the states. To all of these Rossiter brings an originality of perception and a freshness of expression which bring the subject matter to absorbing life. His biographical discussion of the various delegations is peerless; his summary of the Convention's deliberations covers all the essentials without bogging down in parliamentary detail; but his treatment of the ratification process I thought could have been a bit more expansive.

Three "bonus" assets are worthy of special mention. One is a summary statement of the key ideas in the consensus of political and constitutional thought which prevailed in 1787. This is a distillation taken from the author's earlier work, *The Seedtime of the Republic* (1953). Another welcome feature is the concluding chapter on the last years of the framers, which summarizes their careers after 1787. Finally, I would mention the excellent and conveniently arranged bibliography. Although Rossiter modestly refers to it as "select," it may be safely said that few, if any, really significant works have been omitted.

Having spent considerable time plowing the period of our national origins, I must confess that I never come away without a sense of amazement and awe that, in such a brief period and in such a small area, there should have been produced so many men of exceptional political ability as existed in the America of the last quarter of the eighteenth century. No other period in our history has even approximated it. A great many of the leaders of the day were delegates to the Grand Convention, the most notable absences

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<sup>5</sup> *Id.* at 333.

being Thomas Jefferson and John Adams. The talent of the time is dramatically illustrated by Rossiter's exercise in composing a different list of delegates who might have comprised the Convention. It is only slightly less illustrious than the actual assembly. If the Convention was not, as Jefferson called it, "an assembly of demi-gods," it was by any relevant standard a remarkable group, the like of which we certainly could not muster today. The 1780s were, to use Edmund S. Morgan's perceptive phrase, "the brief period when America's intellectual leaders were her political leaders."

It is disheartening, for me at least, to compare the period of our national origins with the America of today. In his summary of the political consensus of that day, Rossiter states:

Finally, it takes more than a perfect plan of government to preserve that state of ordered liberty which is the mark of the good society. Something else is needed, some quality of mind and heart diffused among the people to strengthen the urge to peaceful obedience and among their governors to keep them from sliding into corruption. In a republic that 'something else' is, quite simply, public and private morality. Free government rests at bottom on the moral basis of decent, brave, honest, liberty-loving, industrious, patriotic men. Such men are the raw materials of free government, and there must be enough of them in every society to overcome the obstinate forces of dishonor, unreason, sloth and cruelty.<sup>6</sup>

At the beginning of the Republic, America had the "something else." Can the same be said for today?

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THE PRESS IN THE JURY BOX. By *Howard Felsher* and *Michael Rosen*. New York: Macmillan, 1966. Pp. 239. \$4.95.

The coverage of criminal trials by mass news media is a subject which continues to capture attention and yet persistently defies illuminating analysis. It is also the subject of a recent book by Howard Felsher and Michael Rosen.<sup>1</sup> The authors, as the title indicates, have put the press in the jury box and found it "Guilty." Guilty

<sup>6</sup> *Id.* at 63.

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<sup>1</sup> FELSHER & ROSEN, *THE PRESS IN THE JURY BOX* (1966).