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THE SUPREME COURT AS A CONSTITUENT CONVENTION

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"It is a great mistake to suppose that the paper we prepare will govern the United States." John Francis Mercer in the Federal Convention of 1787.

"It is not on that paper before you we have to rely should it be received; it is those who may be appointed under it. *It will be an empire of men, and not of laws.*"* Patrick Henry in the Virginia Convention of 1788.

"Our government is now taking so steady a course as to show by what road it will pass to destruction, to wit: *by consolidation first, then corruption, its necessary consequence. The engine of consolidation will be the Federal Judiciary; the two other branches the corrupting and corrupted instruments.*" Thomas Jefferson.

It is the contention of this article that the above prophecies are practically a *fait accompli*: that we are no longer governed by the Constitution, that a centralized government has been substituted for the federalism of the Constitution, that we practically have a government limited only by its discretion, and that the Supreme Court in final analysis is primarily responsible for this revolution.

The above contention is based on the following fundamental concepts: (1) the Constitution is a fundamental law emanating from the people of the states, in their separate capacities; (2) it can not constitutionally be changed except by the amendment process which involves the consent of the same source of authority that created it; (3) change by any other process is unconstitutional and destructive of the fundamental character of the Constitution

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*With the exception of the last two words which are italicized in the quotation which is referenced by footnote 8 and with the exception of the italicized word in footnote 4, the italicized matter in quotations appearing in this article have been supplied by the author.

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