The Calvinist Paradox of Distrust and Hope at the Constitutional Convention

Marci A. Hamilton

There was a paradoxical attitude at the Constitutional Convention that has received little attention but that illuminates the Constitution's foundation.[1] It is a distinctive combination of distrust and hope: the Framers repeatedly expressed distrust of any entity exercising power, while they labored with some optimism that they could fashion a scheme of government that would deter tyranny.

This marriage of distrust in individuals but hope in properly structured institutions is no mere historical accident but has its roots in the Reformation theology of John Calvin, the greatest systematic theologian of the Reformation. Others have made the more general case that Calvinist precepts permeated the culture at the time of the framing. Many of the Framers brought to the convention a background in Calvinist theology, with Presbyterians predominating among the Calvinists.

1. I would like to thank Princeton Theological Seminary, the Center of Theological Inquiry, and the Benjamin N. Cardozo School of Law for their generous support as I researched and drafted this essay, and Arti Tandon for her excellent research assistance.

Six of the Framers were Presbyterian, including a Presbyterian minister. The two most influential Framers on the question of the structure of the Constitution, James Wilson and James Madison, were steeped in the Presbyterian tradition, Wilson having been raised and educated as a Presbyterian in Scotland and Madison educated and mentored by the foremost Presbyterian theologian of the time at the College of New Jersey (now Princeton University), the Rev. John Witherspoon. More Framers attended the Presbyterian College of New Jersey than any other single educational institution, including Yale and Harvard. The ten who studied at the College of New Jersey—Bedford, Brearly, Davie, Dayton, Ellsworth, Houston, Madison, Alexander Martin, Luther Martin, and Paterson—were thoroughly educated on Calvinist principles through the curriculum and the compulsory twice-daily chapel.

CALVINIST HOPE AND DISTRUST

At its core, Calvinism, more than any other Protestant theology, brings together the paradox that man's will is corrupt by nature but also capable of doing good. In this paradox are mingled dread, hope, and triumph. Calvin rejected the Platonic notion that knowing good produces good: "Much as man desires to follow what is good, still he does not follow it."[2] Rather, sin is necessary and inevitable—necessary, but also voluntary. "For man, when he gave himself over to this necessity, was not deprived of will, but of soundness of will." Anyone who is measured against the law falls far short. Indeed, "the wickedness and condemnation of us all are sealed by the testimony of the law."[3] Calvin explained, though, that the condemnation by the law does not counsel despair. Rather, one's inability to live up to the law forces one to look beyond the law for salvation, happiness, and reward. Reward in this life and after is not earned but rather offered by God "to attract us by sweetness of rewards to love and seek after him."[4] Thus success is possible even in the face of humans' natural corruption.

Only the presence of God's grace ensures that the human will can be exercised for good. Without grace, human will is corrupt and tends to evil.[5] Thus good and evil are both truly possible. In colloquial terms, we can hope for the

2. Jean Calvin, *Institutes of the Christian Religion,* bk. II, ch. II, § 26, at 286 (John T. McNeill ed. and Ford Lewis Battles trans., 1975) (hereinafter Calvin, *Institutes*).

3. *Id.* at bk. II, ch. III, § 5, at 295; *id.* at bk. II, ch. VII, § 8, at 356.

4. *Id.* at bk. II, ch. VII, § 7, at 356; *id.* at bk. II, ch. VIII, § 4, at 370.

5. *See id.* ("simply to will is of man; to will ill, of a corrupt nature; to will well, of grace").

best but expect the worst from each other and from the social institutions humans devise.

One of the dominating themes of Calvin's theology is this fundamental distrust of human motives, beliefs, and actions. On Calvin's terms, there is never a moment in human history when that which is human can be trusted blindly as a force for good. Humans may try to achieve good, but there are no tricks, no imaginative role-playing, and no social organization that can guarantee the generation of good: "Let us hold this as an undoubted truth which no siege engines can shake: the mind of man has been so completely estranged from God's righteousness that it conceives, desires, and undertakes, only that which is impious, perverted, foul, impure, and infamous. The heart is so steeped in the poison of sin, that it can breathe out nothing but a loathsome stench. But if some men occasionally make a show of good, their minds nevertheless ever remain enveloped in hypocrisy and deceitful craft, and their hearts bound by inner perversity." Thus Calvinism counsels in favor of diligent surveillance of one's own and other's actions, and it also presupposes the value of the law (both biblical and secular) to guide human behavior away from its propensity to do wrong.[6] Although Calvin's views later proliferated into a number of discrete sects with distinctive theologies and organizations, distrust of human nature runs through each.

As Calvinism counsels distrust, it teaches that there is no hierarchy of humans in the eyes of God. Every human, by nature, is sinful. Not even the head of the church is free from the distrust properly trained on all men. This was the hard lesson taught by the pre-Reformation excesses of the Roman Catholic Church: that even the church, and especially its leaders, could be corrupt.[7]

6. *See generally id.* at bk. II, ch. II, §§ 26–27, at 286–89, and bk. II, ch. III, §§ 1–14, at 289–309. This distrust should even extend to our views of ourselves. *See id.* at bk. II, ch. I, § 2, at 242 ("Man by nature inclines to deluded self-admiration"); *id.* at bk. II, ch. V, § 19, at 340; *id.* at bk. II, ch. VII, § 13, at 362. Although the law is a guide, it does not single-handedly open a pathway to redemption and away from sinfulness. Calvin speaks of the "feebleness of the law" in the face of human sinfulness. Human nature makes it impossible to fulfill the law's mandates, and, therefore, "if we look only upon the law, we can only be despondent, confused, and despairing in mind, since from it all of us are condemned and accused." *Id.* bk. II, ch. VII, § 4, at 352. The law is quite useful, however, because once one understands how deficient one is in the face of the law, one is led to seek God's forgiveness and salvation. *See id.* at bk. II, ch. VII, § 13, at 361–62, and bk. II, ch. VII, § 8, at 356–57.

7. *See id.* at bk. II, ch. V, § 17, at 338. As an interpretive matter, Calvin argued against the notion of a supreme papacy because such an institution was "utterly unknown to the ancient fathers." *See generally id.* at bk. IV, ch. II, at 1040–53 ("A Comparison of the False and the True Church").

Calvin's message was not complete with his undeniable emphasis on distrust. He simultaneously pointed to the fount of human hope—the Holy Spirit—to declare that great good could be done if the Holy Spirit is permitted to work through individuals. While the human baseline is sin, "with God all things are possible."[8] God's forgiveness and redemption make salvation and goodness real. So there is reason to have hope despite human nature.

Ultimately, then, Calvin's message was optimistic, though it proceeded from a less-than-happy philosophy. In particular, he placed great hope in the possibility that the magistrates, or representatives, could achieve "just rule." In fact, "civil authority is a calling, not only holy and lawful before God, but also the most sacred and by far the most honorable of all callings in the whole life of mortal men."[9] Calvin directed his efforts toward finding structural, institutional means to avoid mistakes of the past and believed that the principles he prescribed were equally applicable to church and secular government. He prescribed prophylactic measures intended to stem sinfulness and error (knowing full well that neither can be eradicated) by altering church organization and its relation to the people in the optimistic hope that the abuses of the pre-Reformation Catholic Church could be avoided. Specifically, he advocated a system of representation in the church for the purpose of making the church accountable to the faithful.[10] In the end Calvin taught deep humility in the face of human depravity and gratitude in the face of great, and undeserved, blessings. Calvin's socio-political-theological portrait of the human situation demanded despair and hope, distrust and celebration. This deeply pragmatic acceptance of man's shortcomings in the context of great hope was evident at the Constitutional Convention, where Calvinists and Presbyterian training predominated.

DISTRUST AND HOPE AT THE CONSTITUTIONAL CONVENTION

It is all too easy to trace the genesis of the United States Constitution to the convention in Philadelphia. The country's governing structure, though, did not appear out of whole cloth in 1787; rather, the Constitution was a reformation of the states' original constitution, the Articles of Confederation, which in

8. *See id.* at bk. IV, ch. I–II, at 1011–53; *id.* at bk. II, ch. VII, § 5, at 354 (quoting Matthew 19:26).

9. *Id.* at bk. IV, ch. XX, § 4, at 1490.

10. *See id.* at bk. IV, ch. VII, § 19, at 1138–39.

turn was the governing structure crafted in the wake of the Declaration of Independence and the Revolutionary War. The Framers did not arrive at the Constitutional Convention to inscribe a Constitution on a *tabula rasa,* nor did they come flush with confidence after having just defeated a more powerful foe. The Convention's atmosphere was more sober. They came self-consciously armed with the states' ungratifying experiences under the Articles of Confederation, with the prospect of failure on all fronts quite imminent. In the spirit of the Protestant Reformation, they sought to reform the existing constitution, and they chose structural principles to effect that reform.

The success of the Revolutionary War had proven the righteousness of distrusting a king and a supreme Parliament. Following the war, there was a Jeffersonian impulse to trust the people. In those heady post-Revolutionary days, a number of the states severely circumscribed executive power and chained the state legislatures to the will of the people, thinking this was the road to liberty. They trusted the people, through the legislatures, to bring greater wisdom to government than either the king or Parliament had. Their experiment with democracy, however, led to near anarchy, ineffectual trade policies, and serious vulnerability to foreign attack. By the time of the Constitutional Convention, the Framers distrusted the people's rule as much as they had distrusted the king and the Parliament. Yet their distrust did not deliver them to Thomas Hobbes's conclusion that benevolent tyrants rule best. Rather, they embraced distrust as a tool to be employed in shaping the next governing structure. Madison's *Notes of the Debates* are permeated with statements making clear that the Framers believed *all* humans with power must be distrusted and that distrust must be built into the system, but that a system could be crafted that would deter the vices of power.

A Calvinist lens was held to each social entity examined. Wherever the Framers looked, they accepted as a fact that men could and would use their power to accomplish evil ends, rather than good. In James Madison's words, "The truth was that all men having power ought to be distrusted to a certain degree." All those holding power, they believed, would be tempted to expand it: "From the nature of man we may be sure, that those who have power in their hands will not give it up while they can retain it. On the contrary we know they will always when they can rather increase it."[11] Yet although they accepted the fallibility of man and his institutions, they did so in the context of a steadfast,

11. James Madison, *Notes of Debates in the Federal Convention of 1787,* 272, 288 (Adrienne Koch ed., Ohio Univ. Press 1966) (hereinafter Madison, *Notes of Debates*); *id.* at 266 (statement of Colonel George Mason).

if wary, optimism that they might craft a governmental structure that would preserve liberty.

The convention was, at its base, a contest in distrust. The Framers repeatedly couched their explanations for rejecting or accepting proposals in terms of which proposal would be least likely to permit a governmental entity to overstep its bounds. Because there was broad consensus on the end to be avoided—tyranny—the constitutional debates typically focused on the choice of the best means to avoid tyranny. Following the teachings of the Rev. John Witherspoon, they believed that properly structured governing institutions could deter overreaching if not wholly prevent it.

For the Framers, like Calvin, the appropriate exercise of power fell between two extremes. The one holding power could exercise it ineffectually or tyrannically. Either extreme was unacceptable. Thus James Wilson catalogued the types of tyrannical government as follows: "Bad governments are of two sorts. First, that which does too little. Second, that which does too much; that which fails thro' weakness; and that which destroys through oppression." The Articles of Confederation had produced a government that suffered from the former; the Framers were deeply concerned that they not repeat the errors of the Articles, but also that the more powerful federal government they were constructing not suffer from the latter.[12]

That they were consumed with identifying and preventing abuses of power (whether through inaction or overly aggressive action), did not mean that everyone at the convention agreed when a particular governmental structure would tend to tyranny and when it would not. In the context of discussing whether there ought to be popular elections, George Mason stated the matter bluntly: "At one moment we are told that the Legislature is entitled to thorough confidence, and to indefinite power. At another, that it will be governed by intrigue & corruption, and cannot be trusted at all." James Wilson responded that "the legislature might deserve confidence in some respects, and distrust in others."[13] In short, the disagreements at the convention did not arise from different assessments of human nature or different judgments regarding ancient and modern governments but rather revolved around the different empirical assessments made by each of the Framers with respect to each social entity examined.

12. *Id.* at 222. *See id.* at 222, 296 (statements of James Wilson). *See id.* at 201 (statement of Luther Martin) (stressing that the federal government's "powers ought to be kept within narrow limits").

13. *Id.* at 308; *id.* at 309.

The following is a taxonomy of the social structures examined at the Convention and the Calvinist attitudes employed.

Distrust of Power

Edmund Randolph of Virginia was permitted to set the agenda for the Convention with what later would be called the Randolph Plan. In its most salient points it outlined the Constitution's future structure: a bicameral legislature, a national executive, a judiciary, dual sovereignty between federal and state governments, and republicanism (or a system of representation that limited the people's power) at both the federal and state levels.[14] Each aspect featured a division of power. This distrust of centralized power was shared by other Framers as well and, in fact, dominated the convention.[15]

Distrust of the Legislature

There was general consensus at the convention that the most tyrannical branch of the federal government would be the legislature. Pierce Butler of South Carolina responded to Randolph that he had been opposed to granting power to Congress, but Randolph's plan, which divided power between two bodies, persuaded him they were on the right path. Butler distrusted a Congress with significant power, but he was willing to provide it some power if it was not concentrated in any single social entity. Legislatures were characterized repeatedly in negative terms. For example, "the legislature will continually seek to aggrandize & perpetuate themselves; and will seize those critical moments produced by war, invasion or convulsion for that purpose." Madison observed a "tendency in our governments to throw all power into the legislative vortex. The Executives of the States are in general little more than Cyphers; the legislatures omnipotent. If no effectual check be devised for restraining the instability & encroachments of the latter, a revolution of some kind or other would be inevitable."[16] In perhaps the most Calvinist moment at the Convention, Gouverneur Morris rejected the notion that the legislature should choose the na-

14. *Id.* at 28–30.

15. *See* Marci A. Hamilton, *Discussion and Decisions: A Proposal to Replace the Myth of Self-Rule with an Attorneyship Model of Representation,* 69 N.Y.U. L. Rev. 477, 540 (1994) (hereinafter Hamilton, *Discussion and Decisions*); *see also* Bernard Bailyn, *The Ideological Origins of the American Revolution* 162–63 (1967); Gordon S. Wood, *The Creation of the American Republic, 1776–1787,* 559 (1969) (hereinafter Wood, *The Creation*).

16. See Madison, *Notes of Debates, supra* note 11, at 34–35; *id.* at 322 (statement of Gouverneur Morris); *id.* at 312 (statement of James Madison).

tional executive on the ground that "it will be like the election of a pope by a conclave of cardinals."[17]

Distrust of the People

The people were trusted no more than any governmental entity. On this score, the Framers followed the Presbyterian path out of early Calvinism, which endorsed a republican polity and rejected the town meeting–style democracy of the Congregational Calvinists and the hierarchical governmental form of the Episcopalian bishopric.[18] Though thought to be the source of all legitimate power, they were not trusted to be the sole or even primary exercisers of political power. Thus the Framers distrusted not only centralized power but also power wielded by the people qua the people. Popular decisionmaking, or democracy, was routinely denigrated in the debates. Roger Sherman stated the prejudice against popular decisionmaking succinctly: "The people . . . immediately should have as little to do as may be about the Government. They want information and are constantly liable to be misled." Elbridge Gerry chimed in, stating that "the evils we experience flow from the excess of democracy." Madison did not have faith in the competency of individuals to know the public interest and said that "they themselves . . . were liable to err also, from fickleness and passion. A necessary fence against this danger would be to select a portion of enlightened citizens, whose limited number, and firmness might seasonably interpose against impetuous councils." Colonel Mason compared the people to a "blind man" in rejecting the concept of popular elections.[19] The Constitu-

17. *Id.* at 306.

18. See James L. McAllister, Jr., *Francis Allison and John Witherspoon: Political Philosophers and Revolutionaries,* 54 J. Presby. Hist. 33, 52 (1976); *The Complete Works of Rev. Thomas Smyth: The True Origin and Source of the Mecklenburg and National Declaration of Independence* 43–44 (J. Wm. Flinn ed., R. L. Bryan 1908) (1847).

19. *See* Madison, *Notes of Debates, supra* note 11, at 75–77 (James Madison); Alexander Hamilton et al., *The Federalist Papers,* No. 46 (Mentor 1961) (1788) (James Madison) ("the majority, having such co-existent passion or interest must be rendered . . . unable to concert and carry into effect schemes of oppression"). *See* Madison, *Notes of Debates, supra* note 11, at 39 (statements of Roger Sherman and Elbridge Gerry); *id.* at 42 (statement of Edmund Randolph); *id.* at 64 (statement of Colonel George Mason); *id.* at 194–95 (statement of James Madison to guard against the danger of majorities over the minority based on republican principles); *id.* at 137 (statement of Alexander Hamilton) ("He sees evils operating in the States which must soon cure the people of their fondness for democracies"); *id.* at 39; *id.* at 194; *id.* at 308.

tion's explicit choice of representation (for the federal government and the states) over direct democracy confirms the presence of such distrust at the convention.[20]

Distrust of Religion

No social entity was immune from the Calvinist distrust that permeated the convention. Religions were treated to the same attitude. Although the Framers acknowledged religion's power and potential goodness, they were more than a little concerned that religion could exceed its appropriate bounds in the political sphere.[21] This attitude toward religion was hardly surprising; many in the United States had fled Europe to escape religious oppression at the hands of established churches.[22] For the Framers religion manifested itself in the political culture as religious sects or factions capable of wielding significant power. The Framers valued religious liberty and therefore believed in protecting religion from a potentially tyrannical state, but they equally regarded it as potentially tyrannical. In their view religion is capable of applying political pressure in ways that are unacceptable in a republican democracy. Although this view is somewhat unorthodox in contemporary discourse, it follows naturally from the genesis of Protestantism, which was born out of an awareness that the church could do wrong.[23] This view of religion as simultaneously good for society and capable of overstepping its proper bounds echoes Calvinist precepts, which marry a faith in the good that human institutions can accomplish to an acceptance of the fact that all human institutions are inevitably fallible.

20. *See* U.S. Const. art. I and art. IV, § 4 (Guarantee Clause).

21. *See* Madison, *Notes of Debates, supra* note 11, at 210 (statement of Benjamin Franklin) (suggesting that the convention hire a chaplain to guide them in their deliberations). *See id.* at 76 ("Religion itself may become a motive to persecution & oppression") (statement of James Madison).

22. *See* Rodney J. Blackman, *Showing the Fly the Way Out of the Fly-Bottle: Making Sense of the First Amendment Religion Clauses,* 42 U. Kan. L. Rev. 285, 306–7 (1994).

23. *See* Calvin, *Institutes, supra* note 2, at bk. IV, ch. II, at 1041–53. For contemporary discourse, *see* Madison, *Notes of Debates, supra* note 11, at 76 (statement of James Madison); *id.* at 306 (statement of Gouverneur Morris) (identifying "faction" with "conclave of cardinals"). *See id.* at 76. *See id.* at 77 (statement of James Madison) (stating that "a republican system on such a scale & in such a form as will controul all the evils which have been experienced will be necessary to prevent a war on factions, including religious sects"); *id.* at 428 (statement of James Madison) (discussing influence of religious parties on British Parliament).

Distrust of the Executive

The experience with a monarchy in Britain led many of the Framers particularly to distrust the executive and to worry over its power. Some feared that a single executive would be transformed into a "hereditary monarchy." In Randolph's memorable words, a one-man executive was "the foetus of a monarchy." James Wilson argued against Randolph in favor of a unitary executive. Butler, in turn, feared the executive's veto power, observing that "in all countries the executive power is in a constant course of increase. . . . Why might not a Cataline or a Cromwell arise in this Country as well as in others."[24] Randolph, Wilson, and Butler proceeded from the same principle: every human institution is capable of tyranny. They sought, through their crafting of executive authority, to find the best means of preventing tyranny.[25] Thus, although they disagreed on the empirical question of which organization would most likely lead to tyranny, they agreed that the avoidance of tyranny by the inappropriate exercise of power was the goal of the choice.

Distrust of the Self-Interest of Representatives

The same logic of distrust was applied to the debates over compensation for federal legislators and the federal executive. The debaters sought to avoid tyranny because they distrusted those in power, but they differed on how best to avoid tyranny. Benjamin Franklin was permitted a lengthy speech in which he suggested that federal officials receive no compensation because otherwise the country would be governed by uncontrollable and avaricious men. Compensation would induce "the bold and the violent, the men of strong passions and indefatigable activity in their selfish pursuits [to serve]. These will thrust themselves into your Government and be your rulers." Franklin lost, but only because the other Framers believed that it was necessary to offer some remuneration to induce good and not just rich men to lead the country.[26]

Distrust of the States

The experience under the Articles of Confederation led many of the Framers also to distrust the states. James Madison, in the course of arguing in favor of

24. Madison, *Notes of Debates, supra* note 11, at 312 (statement of Colonel George Mason); *id.* at 46; *id.* at 47; *id.* at 63.

25. *See id.* at 47 (statement of James Wilson) ("unity in the Executive instead of being the foetus of monarchy would be the best safeguard against tyranny").

26. *Id.* at 52–55; *id.* at 52. *See id.* at 198.

Congress's ability to preempt state law, provided a laundry list of reasons to distrust the states: "Experience had evinced a constant tendency in the States to encroach on the federal authority; to violate national Treaties; to infringe the rights & interests of each other; to oppress the weaker party within their respective jurisdictions." Madison's comments elicited an outraged response from Gerry, who trusted the federal government less than he trusted the states, and who predicted that a federal government with preemption authority would "enslave the States" because the Congress would abuse its power to preempt. Wilson responded that they could not successfully correct the Articles' errors without a federal power that could preempt state laws, and Dickinson added that they were forced to choose between "two things": "We must either subject the States to the danger of being injured by the power of the Natl Govt or the latter to the danger of being injured by that of the States."[27] While Dickinson concluded that the "danger [was] greater from the States," everyone participating in this discussion assumed that one or both governments, federal or state, deserved to be distrusted.

A great deal of the discussion at the convention centered on the means of selecting members of the two houses of the bicameral Congress. Some distrusted the small states, some the large, and some neither. Wilson urged strongly the election of both houses directly by the people, as "The General Government is not an assemblage of States, but of individuals for certain political purposes—it is not meant for the States, but for the individuals composing them; the *individuals* therefore not the *States,* ought to be represented in it."[28]

Paradoxically, in the midst of all this distrust, the Framers expressed sincere hope and optimism regarding the success of their endeavors. They placed their faith, as Calvin had, in the ability of well-structured systems to deter, even if they could not halt, the human impulse to tyranny, and they believed themselves to be "providing for [their] posterity, for [their] children and [their] grandchildren." Wilson stated, "We should consider that we are providing a Constitution for future generations, and not merely for the peculiar circumstances of the moment."[29]

Gouverneur Morris sketched the hope-filled mission of the typical delegate in the following terms:

27. *Id.* at 88; *id.* at 89–90; *id.* at 91; *see also* Hamilton, *supra* note 19, at No. 46, at 295–300.

28. *Id.* at 133; *id.* at 189; *see also* Hamilton, *Discussion and Decisions, supra* note 15, at 526–27.

29. *See, e.g.,* Madison, *Notes of Debates, supra* note 11, at 279 (statement of Gouverneur Morris) ("He came there to form a compact for the good of America"); *id.* at 288 (statement of Roger Sherman); *id.* at 376.

> He came here as a Representative of America; he flattered himself he came here in some degree as a Representative of the whole human race; for the whole human race will be affected by the proceedings of this Convention. He wished gentlemen to extend their views beyond the present moment of time; beyond the narrow limits of place from which they derive their political origin. If he were to believe some things which he had heard, he should suppose that we were assembled to truck and bargain for our particular States. He can-not descend to think that any gentlemen are really actuated by these views. We must look forward to the effects of what we do. These alone ought to guide us.[30]

Given their inclination to distrust all holders of power, one can only marvel that the Framers did not walk away from their project. It was a faith in structural solutions to the problem of fallible man that helped them persist through the major and petty disputes over the many diverse provisions of the Constitution.

Their hope was not the helium-filled hope of the Enlightenment that would lead men to believe that they could, by reason alone, solve all problems. The Framers' hope was a Calvinist hope, always tethered to the anchor of human fallibility and sinfulness. Their view, expressed in the letter to Congress that accompanied the Constitution, was that they had done the best they could. They did not display false humility about their intellectual gifts and education but rather assumed that even when armed with such blessings they would produce an imperfect document. Knowing they could not render perfection, they included Article V, which mandates the procedures for amendment and makes clear that they anticipated the necessity of altering the document over the course of time. Like the Presbyterian Church's constitution, which was being written at the same time in Philadelphia and was built on the same architecture of distrust, they assumed that the Constitution was to be "reformed, always reforming."

It should come as no surprise that the Framers borrowed from their heritage a deep-seated theological construct to address the problems they faced. Theological precepts are as available to one as any other precept when one faces a challenge. There are sufficient parallels between the scenarios facing Calvin and the Framers to justify resort to similar principles.

The Framers were charged with a mission not unlike John Calvin's in the sixteenth century: to save a failing social organization from complete dissolu-

30. *Id.* at 240.

tion.[31] For Calvin it was the Christian Church that needed to be saved; for the Framers, the union of the states. Each faced a social institution that was expected at its formation to be capable of fulfilling its appointed role but that had failed. By Calvin's time the Roman Catholic Church had become a corrupt but influential behemoth, which had lost sight of its fundamental mission.[32] The confederation of states had degenerated into anarchy and an "excess of democracy," meaning that mob rule, unaccountable to higher ideals, had appeared.[33] The errant church had lost sight of the Holy Spirit, which was evidenced in the fact that church leaders had established personal fiefdoms and left behind their *raison d'être,* the saving of souls.[34] The states had lost sight of the goals set in the Declaration of Independence and had made a mockery of the many lives that had been lost for the purpose of securing independence.

Calvin and the Framers also viewed their missions as emergencies.[35] Although both missions were daunting in scope, each was approached with a confidence that defies common wisdom. In spite of the power amassed by the church and its pervasive influence, Calvin set his entire existence toward repairing the institution. In spite of the failure of the states' first constitution, the Articles of Confederation, the Framers accepted the charge to fix the confederation.[36] Each set out to bring back a state of affairs that had been intended but unrealized, to institute an order that could realize liberty. Thus each shared this

31. *See generally* Calvin, *Institutes, supra* note 2; *The Confederation and the Constitution* (Gordon S. Wood ed., 1978); Wood, *The Creation, supra* note 15, at 373–74; *see also* Madison, *Notes of Debates, supra* note 11, at 30 (resolutions proposed by Edmund Randolph); *id.* at 91 (statement of James Wilson) ("To correct [the articles'] vices is the business of this convention."); *id.* at 13–17 (Madison's preface).

32. Calvin found most "unbearable" the lack of accountability of the Roman Catholic see. *See, e.g.,* Calvin, *Institutes, supra* note 2, at bk. IV, ch. VII, § 19, at 1138 ("What is most unbearable of all [is that] they leave no jurisdiction on earth to control or restrain their lust if they abuse such boundless power. Because of the primacy of the Roman Church, they say, no one has the right to review the judgments of his see. Likewise: as judge it will be judged neither by emperor, nor by kings, nor by all the clergy, nor by the people").

33. Madison, *Notes of Debates, supra* note 11, at 39 (statement of Elbridge Gerry); *see also id.* at 42 (statement of Edmund Randolph).

34. *See* Calvin, *Institutes, supra* note 2, at bk. IV, ch. V, § 5, at 1089.

35. *See, e.g., id.* at bk. IV, ch. XX, § 29, at 1516–17 (counseling courage in the face of "great and present peril"); Madison, *Notes of Debates, supra* note 11, at 241 (statement of Gouverneur Morris) ("This county must be united. If Persuasion does not unite it, the sword will").

36. *See* Madison, *Notes of Debates, supra* note 11, at 222 (statement of James Wilson); *id.* at 240 (statement of Gouverneur Morris).

paradox: the phenomenon of hope in well-created institutions coexisting with a disillusionment leading to complete distrust. Of the theological traditions available to the Framers, the Calvinist tradition offered the most pragmatic solution to the problem of human shortfall: structural tools that could redress the failure of a faulty governing scheme.

For Calvin the only liberty was salvation. Humans could not effect this liberty. Indeed, human nature stood in the way. Salvation is a gift of God. The pre-Reformation church's efforts to sell salvation were treated to Calvin's most vehement rebukes. The tyrannical rule of church leaders had impeded its true mission. Thus Calvin set himself to restructuring the church to prevent this form of human tyranny from reappearing.[37] Although the experience with the pre-Reformation church taught him not to trust any humanly conceived and run institution, he had great hope that the church could find its way back to its original mission.[38]

For the Framers liberty also was freedom from human tyranny.[39] They believed that the convention might produce a form of government that tended less toward tyranny. Charles Pinckney captured the convention's mood as follows: "Our true situation appears to me to be this. A new extensive Country containing within itself the materials for forming a Government capable of extending to its citizens all the blessings of civil & religious liberty capable of making them happy at home. This is the great end of Republican Establishments."[40] The goal was conceived; the "materials" were available. The convention sought the right pragmatic structure to solve the problems posed by the Articles of Confederation and to prevent their recurrence.

In the back-and-forth of philosophical and political debates, we are often asked to choose between two conflicting options. Enlightenment-trained reason is supposed to be able to lead us to one or another.[41] Calvinist theology taught the Framers, in contrast, that the paradoxical elements of distrust and hope could be brought together to good effect.

37. *See* Calvin, *Institutes, supra* note 2, bk. IV, at 1011–1521.

38. *See id.* bk. IV, ch. XX, § 32, at 1520–21.

39. The words *tyranny* and *tyrannical* appear repeatedly in Madison's *Notes on the Debates. See, e.g.,* Madison, *Notes of Debates, supra* note 11, at 47, 48, 22, 308, 323, 615.

40. *Id.* at 185 (statement of Charles Pinckney).

41. *See generally* Steven Smith, *The Pride of Reason* (1997).