

ALEXANDER HAMILTON AND ALBERT EINSTEIN DROP 'THE BIG ONE' ON JAMES MADISON

"I'm sure glad this isn't happening at Montpelier," Jimmy wipes his brow.

"Monticello always offers a comfortable retreat, if I may also," Martha 'Patsy' Jefferson Randolph gestures, "commend to your comfort, Mrs. Madison, our magnificent parlor. Enjoy the view of the Blue Ridge Mountains."

"You didn't invite John Marshall did you?" Dolley asks. "I know how these miscarriages of hospitality – " and here she gives me a stern look – "amuse Alaskans."

"I would have staged this in the Supreme Court chambers," the former governor explains, "and threatened to haunt the premises if my request were denied."

"You're much too young to compete with the likes of us," Jimmy sighs. "Let's get started. Professor?"

"James Madison," I nod fourth-President-wards, "suffered two significant defeats in his life."

"August 24, 1814 was one. And I was there." Dolley Madison ticks off 'Is Washington Burning?' "as if the date weren't singed in collective memory."

"You want me to rethread February 2, 1791, the other worst day of my life," Madison clears his throat. "I had a great argument. America didn't need a national bank. Especially one that would sell its stock to Congressmen."

"That's my cue. Stockjobbers," The Master of Monticello appears. "Since I order claret by the barrel, I have the pleasure of decanting and,

thereby, aspirating my esters.” He tugs at the velvet cord of the dumbwaiter he invented. “En haut!”

“Now as to Hamilton’s bank, this was the end of the first Congress. He, of course, swept everyone off their feet with his Report on Public Credit,” Madison continues. “And the Continental Congress chartered a bank in 1781.”

“A precedent!” Jefferson calls out. “You don’t mind if I fence à la Hamlet, Act Five, do you?”

“So I said,” Madison ignores him, “ ‘if the power to establish a national bank were not in the Constitution, the exercise of it involves the guilt of usurpation, and establishes a precedent of interpretation leveling all the barriers which limit the powers of the general government and protect those of the state governments.’ ”

“ ‘A touch,’ ” Jefferson exaggerates the mortal wound on behalf his presidential guest. “ ‘A touch, I do confess.’ ”

“And then I figured,” Madison confesses, “why not throw the Tenth Amendment into the debate?”

“It takes a smart lawyer to base an argument on a constitutional amendment not yet ratified,” Jefferson opens the second bottle of ‘Cuvée TJ’ Bordeaux. “It takes an even smarter one to get his own amendment thrashed, and thrashed for good, on its maiden essay.”

“I’m sure,” Dolley signals *pace pace*, “my husband can play his role without further dramatics. Even from a presidential host,” she sniffs. “After all, if I seek presidential enterprise – ”

“ ‘Gertrude,’ ” Jefferson interrupts Madame Madison, “ ‘do not drink!’ and now,” he adds, “I will bow myself into a state of repose.”

“Of course,” the former governor of Alaska points out, “you had already, by that stage in your speech, reminded everyone of your assurances at the Richmond ratifying convention. That was June, 1788. ‘State

responsibilities exercised at the time of ratification could never be fulfilled by federal action. Without text-based authority.' Or words to that effect."

"John Marshall made the same concession and Luther Martin read that passage back to the Chief Justice at oral argument in *McCulloch*. Thirty-one years after Richmond," Madison sighs. "Ah, the convention. I remember it well. There we were, side by side, Madison and Marshall, anti-federalists to the left of us, anti-federalists to the right of us. Into the valley of death – "

"Allow me," I refer to the Annals of Congress. "In 1791 you 'read sundry passages from the debates of the Pennsylvania, Virginia and North-Carolina conventions, shewing the grounds on which the Constitution had been vindicated by its principal advocates,' – 'that's us,' Madison sighs, "'charged on it by its opponents.' "

"But he said, and here I refer to Secretary of the Treasury Hamilton," Dolley declares, "it's all in the 'nature of government.' 'Powers contained in a constitution ought to advance the public good. This rule does not depend on the particular form of a government, or on the particular demarcation of the boundaries of its powers, but on the nature and object of government itself.' "

"Oho!" Jefferson sings out. "I've got a great metaphor. Here's Hamilton and Madison and their new constitution."

"Daddy and were I living in Paris at the time," Patsy explains.

"And it's like," Jefferson continues, "the constitution is a new car. Brand spanking new. And Madison, here, is writing up the owner's manual with the manufacturer's warranties. All the paperwork for the new owner. But – "

"Hamilton," Madison picks up the thread, "takes me out for a test drive. He pushes the car to speeds I never thought possible. He drives it through running water and over three school buses parked end to end."

"'Alexander!' " Our Alaskan governor imitates Madison's horror at the bank bill. " 'The constitution was never designed to deliver such

performance! You may tempt danger itself! How you would satisfy the customer's transportation needs!' ”

“ ‘Mark the reasoning on which the validity of the [bank] bill depends’,” Madison ignores Gov. Palin's provocation, “as I prefer to do my own quotes. ‘To borrow money is made the *end* and a bank *implied* as the *means*. If implications thus remote and thus multiplied can be linked together, a chain may be formed that will reach every object of legislation, every object within the compass of political economy.’ ”

“Couldn't you see where this was going?” I blurt. “If Congress passed,” and here I supply the gesture universally understood to freight the subjunctive, “the bank bill, you would thereby concede Congress a free hand with crisis and opportunity. Rendering Hamilton's ‘nature of government’ reasoning triumphant!”

The assembly takes this in.

Patsy picks up the thread.

“Daddy wrote a constitutional amendment to give Congress the power to govern the Louisiana Territory. And it never even got out of committee.”

“Five different versions,” Jefferson tenders a generous pour all-round. “I was the first and only president to honor the Tenth.”

“I can't believe I threw the Tenth into the heat of battle,” Madison sighs. “To quote myself: ‘The power exercised by the [bank] bill was condemned,’ I said, ‘by the explanatory amendments proposed by Congress themselves to the Constitution.’ ”

“ ‘Every new Legislative opinion’,” Jefferson exults, “and these are your words, thirty-seven years on, ‘might make, a new Constitution.’ I got the Louisiana Territory and the Lewis and Clark expedition to my credit. And without any amendment!”

“And I tried to fight the British without a national bank!”

“I guess I'm not just that doctrinaire!” sniffs our host.

“It gets worse,” Madison sighs. “We assured the delegates in Richmond, ‘This is the government you’re getting. If we want more powers we’ll come back and ask for more.’ I promised them a Tenth – okay we numbered it the Twelfth at the time – to stop the Industrial Revolution. Let’s say the constitution lacked the treaty-making power. ‘The defect could only have been lamented or supplied by an amendment of the Constitution.’ That’s what I said.”

“That’s the end of ‘nature of government’ reasoning,” I wheel my Alaskan push-cart behind Madison. “If the Tenth only worked as you thought it would,” I mumble, “as Virginians do not listen when Alaskans are talking.”

“ ‘No power,’ ” Madison continues, “ ‘not enumerated could be inferred from the general nature of government.’ ”

“The federal government has no authority whatsoever to deal with the future because states *can* deal with the future. *Could, might, perhaps,*” Dolley recites. She signals for a refill. “Illegal use of modals, that’s what the referees are signaling.”

“ ‘The Twelfth,’ you said, ‘excludes,’ ” I read from Elliot’s Debates, “ ‘every source of power not within the constitution itself.’ ”

“The choice was clear,” Madison concludes. “Either Hamilton’s ‘nature of government’ – 450 cubic inches of raw power, four on the floor, and fuzzy dice – or a rickety horse-and-buggy with a red lantern suspended on the rear axle. The Madisonian Anti-Future-Mobile. Who’d you think won?”

“Madison shouldn’t have brought up the topic at all,” I ask Jefferson. “Right?”

“ ‘Go, go to your fancy party,’ ” Jefferson answers. “If I can channel Jerry Seinfeld’s Uncle Leo. ‘Go ahead Hamilton,’ I would have said. ‘Laugh it up. “Nature of government” reasoning isn’t prohibited now; but it will be as soon as Virginia ratifies the Twelfth; okay, the Tenth Amendment.’ That’s what you should have said.”

“But I insisted that a vote for the bank bill was a vote to trash the Tenth. I rendered the Tenth ‘dead on arrival’.”

“So that explains why Jefferson has written,” I add, “We need amendments to the constitution to make it keep pace with the advance of the age in science and experience.’ ”

“This is my husband’s last concession,” Dolley intervenes. “And then we’re on to the crudités. Jefferson wrote my husband, and this is September 6, 1789,” she footnotes, “ ‘don’t bother thinking that the constitution – or anything – will last more than nineteen years.’ Or words to that effect.”

“A ‘Jefferson generation,’ ” our host smiles.

“So any majority only has the use of the earth (and everything it offers) for the interval consigned to them.”

“Usufruct,” Jefferson quotes himself. “Fresh vegetables, anyone?” he platters the opening course.

“Well, that certainly wraps things up,” Governor Palin declares. “Just one question, if I may,” she turns to our fourth President. “Did you really think that Albert Einstein was asking for a constitutional amendment when he suggested a nuclear weapons program to President Roosevelt?”

“This offends you,” Madison asks, “because you’re not in favor of nuclear disarmament?”

“It offends me because Alaska would not have the chance to exploit that ‘source of power’.”

“Roosevelt proceeds as did Jefferson in 1803,” I scroll through the options. “He proposes a constitutional amendment – in secret of course – to authorize federal development of fission-based weapons.”

“But the states reject the amendment and each of our forty-eight states builds its own weapons,” the governor picks up the thread.

“Whoa!” I point out. “Alaska and Hawai’i, as territories, would be losers in that arms race!”

“Each would be obliged,” Dolley Madison purrs, “to rely on its own – how do I put this? – force of nature. Anything to suggest for Alaska, Governor Palin?”

“An unstoppable force?” Dolley’s dialogue partner studies her nails. “I’m sure something will come to mind.”

Apparatus

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