

1 political theory was one of restraining government, that
2 is, we were fearful of government; government was not to
3 be trusted, government was not to be active. It was to
4 carry out police functions and leave everything else alone.

5 Now, we are in an era of very active government.
6 We are demanding a great deal of government. If we are
7 interested in a very strong and viable Federal system,
8 then, in effect, we've got to figure out ways in which
9 states can play a more important role and we've got to
10 think of structuring our political institutions in a way
11 that states can play this role.

12 Throughout American history there has been a
13 problem of balanced constitutionalism against democracy.
14 Constitutionalism means essentially placing restraints
15 upon government and, in a democratic system, it means
16 placing restraints upon the majority. So, we fashioned
17 a number of things; separation of powers, the bicameral
18 legislature, judicial review, all of these things to, in
19 effect, restrict the majority.

20 So, the question arises, how many restraints
21 do we want to place upon the majority? How effectively