European integration and its structures have been constantly evolving since the beginning; the basic texts of the European Treaties themselves have undergone several rounds of revisions and additions. Although, as argued in Part I of this volume, the constitutionalisation process of the EU cannot be reduced to the making and revising of treaties, it is at this level that change has become both most visible and politically contested. This chapter concentrates on the successive rounds of negotiation and treaty revision since the early 1950s. In this sense, it outlines ‘constitutional politics’ in its most immediate sense, that of political actions involved in making a constitution.

This chapter looks in particular at how changes to the EC/EU Treaties were negotiated over the first five decades of the integration process, and how the ‘Convention method’ first emerged for the drafting of the EU Charter of Fundamental Rights, and was later adopted for the drafting of the Constitutional Treaty. Obviously, there were important differences between the two Conventions. The Charter Convention was more of an experiment, and its members were given free rein in the way in which to organise themselves and their procedures, even though their mandate was comparatively narrower in scope. The Constitutional Convention was a larger body, on which political actors exercised a tighter control, but to which they gave a wider remit, something that made it a more political body. In spite of these differences, there were important structural similarities, as we will show in this and subsequent chapters. In doing so, we shall also examine the role of the European Council, which established the Conventions in the first place, determined their composition, their agenda and working method, and retained the power to sanction the results of their deliberations.

This chapter, however, is mainly intended to develop an understanding of the Convention phase in the wider context of the EU’s institutional development. It does so by emphasising the continuities with some of the previous methods and attempts in the history of EC/EU institution building, but also by arguing that the Conventions represent a new development, due both to their internal structures and to their (potential) capacity to broaden the
debate, thereby involving the European public at large. The second part of the argument, concerned with the novelty of the method, will be discussed at greater length in the following chapters.

In the beginning, there were the committees

Even though the history of European integration is frequently told as an endeavour of brave, far-sighted individuals who took lonely decisions (Dinan, 1994), it is also true that there have always been larger or smaller groups of people who were involved in the strategic planning and who devised the political and legal framework for what was to become the EU. While Jean Monnet and his role in shaping the first steps of European integration certainly suggest that there was a crucial part to be played by a strong-minded individual whose success was partly due to his ideological and political independence, the concrete follow-up (the Schuman declaration of 9 May 1950) saw the establishment of the ‘Schuman-Plan Conference’ (Monnet, 1976: 409) to discuss the details – the first European intergovernmental conference. The conference consisted of representatives of six national governments with several advisers each, under the leadership of Jean Monnet himself. Altogether this first IGC included about sixty individuals, though Monnet underlined in his memoirs how he realised, early on, that in order to achieve rapid progress he had to divide the conference into working groups while he kept the delegation leaders of each country in an upper circle to discuss the institutional problems in an open atmosphere ‘without consideration for technical advisers and without being bound by an agenda’ (Monnet, 1976: 410, translation provided). It was this body which wrote, on the basis of an original draft which Monnet and his closest advisers had prepared, the original Treaty of the European Coal and Steel Community, which was signed on 18 April 1951, after about ten months of what Monnet insisted was ‘co-operation’ within the conference rather than ‘negotiation’ (Monnet, 1976: 409).

The ECSC Treaty established, as one of the institutions of the new structure, a parliamentary body, the Common Assembly. When talks began, even before the ECSC Treaty was signed, about the parallel setting up of a European Defence Community (EDC), the idea of a parliamentary assembly was replicated. Moreover, the Treaty on the EDC (signed by the member states in May 1952) included a commitment to some kind of political authority to supervise and direct the new defence community and called on the parliamentary assembly of the ECSC to ‘... study: a) the creation of an assembly of the European Defence Community elected on a democratic basis; b) the powers which might be granted to such an assembly; c) the modifications which should be made to provisions of the present treaty relating to the other institutions of the Community, particularly with a view to safeguarding the appropriate representation of the States’ (cited from Fondation Spaak I, 1984: 37).