

I am pleased to have the opportunity to speak with you today about the beginnings of our country and the foundation on which it stands. *If we the people mean to be our own governors, we must arm ourselves with the power which knowledge gives. For the nation of these states is a wonder; the Constitution, a miracle; and their example is the hope of liberty throughout the world.*

What form of government is the United States of America? _____

The answer is a constitutional republic. We are a republic, not a democracy. *The two great points of difference between a democracy and a republic are: first, the delegation of the government, in the latter, to a small number of citizens elected by the rest; secondly the greater number of citizens, and greater sphere of country, over which the latter may be extended. For in a large republic the influence of factious leaders may kindle a flame within their particular states but will be unable to spread a general conflagration through other states.* Our system of governance is based on our most important document: the Constitution.

This form of government was not assured when the revolutionary war ended in 1783. We were a fragile entity which easily could have devolved into independent and competing states overrun by foreign countries. I have been called the “Father of the Constitution,” but I object to that title as the Constitution was *not the off-spring of a single brain but the work of many heads and hands*. I served to organize the convention at which the Constitution was drafted, and I recorded detailed notes throughout the process never missing a day of the deliberations. I intentionally seated myself in front of the presiding officer to hear all that was said. I prefer not to be in the forefront, but William Pierce of Georgia kindly stated that “at every question Madison always comes forward [as] the best informed man of any point in debate.”

During the war, the thirteen states were loosely joined under the Articles of Confederation. The articles established a

confederation congress, sometimes called the continental congress, who made decisions about the war but little else. The states were sovereign and independent thus operating on their own special interests without regard to thinking about a nation as a whole. We were unified only in our desire for independence from England. Many were apprehensive about a strong central government and wanted to preserve the power of individual states. To counter the assertion of states' rights, Mr. James Wilson said, "*Can we forget for whom we are forming a government? Is it for men or for the imaginary beings called states?*" I later wrote that the federal government should be limited and its *jurisdiction extends to certain enumerate objects only, and leaves to the several States a residuary and inviolable sovereignty over all other objects.* Both state and federal governments are answerable to the citizenry and are not rivals; *they are in fact but different agents and trustees of the people, constituted with different powers, and designed for different purposes.* I envisioned that *the operations of the federal*

government will be most extensive and important in times of war and danger; those of the State governments, in times of peace and security.

Yet once the war ended, several states were at risk of turning into the same tyranny which they had opposed in the war; few states had a suitable constitution of their own. No other country had yet developed a constitution, so there were no examples for us to follow.

We were experiencing difficulties due to the limitations of the original articles. Under the Articles of Confederation, representatives to the congress were not elected by the people and each state had only one vote regardless of size or population. During the war, the confederation was unable to raise necessary funds to keep the troops supplied with wages, food, and clothing nearly leading to mutiny of by the army. After the war, the congress did not have the legal power to respond when

foreign countries put restrictions on United States shipping, when Spain encroached on land in the south, and when the British continued to occupy forts. States could bar the import of products from other states. As people settled in the west, they threatened to create their own states outside of the union or join with Spain. And all thirteen states were required to agree to amend the document—nearly an impossibility at any time. A national government was needed to raise money to pay our debts from the war and fund our operation, to regulate commerce, to print one stable form of currency (rather than each state minting its own), and to defend the states against foreign threats. There was no mechanism by which personal liberties could be protected. We needed a *Union as our bulwark and as the only substitute for those military establishments which have subverted the liberties of the Old World. A crisis had arrived which was to decide whether the American experiment was to be a blessing to the world, or to blast forever the hopes which the republican cause had inspired.*

I and others realized that a new governing document needed to be created to replace the insufficient Articles of Confederation. In 1783, Mr. Alexander Hamilton had called a convention with resolutions to amend the Articles of Confederation, but the states were not yet ready for change, and the proposal died due to lack of support. A second convention was called but again had no support. I called for a convention in 1786 in Annapolis to specifically address issues of commerce, but only five states responded. Even with meager attendance, Hamilton audaciously announced that a convention for reforming the Articles of Confederation would be held beginning the second Sunday in May of 1787. Although the convention proposed to revise the Articles of Confederation, several of us including General Washington, Hamilton, John Adams, and John Jay realized that revision would not be adequate. States were slow to accept the invitation, but eventually all but Rhode Island sent delegates. Rhode Island feared that it would lose self-control to the larger states. Shays Rebellion the summer before created fear in the

states and a desire for a stronger government to react which prompted them to send delegates.

By May 25, 1787, enough delegates (29 from 9 states) had arrived to constitute a quorum. We met in Philadelphia in the same hall in which the Declaration of Independence had been signed. Philadelphia was one of the largest cities at the time with about 30,000 in population, and welcomed us graciously.

Philadelphia entertained the delegates with musicals and covered the cobblestones in front of the state house with gravel to quiet the carriage noise outside. To prevent journalists from publishing contentious debates and prematurely sharing proposals (which might be defeated) with the people, the windows and doors of the room were kept locked, and sentries were posted in the hallway. The heat was stifling, and bluebottle flies attached us outside and invaded our bedrooms. We suffered miserably but persevered. Prisoners in the jail across the street from the state house crowded their windows and pushed long begging sticks

through the bars. A cloth cap was held at the end of the stick for collecting coins. If we delegates weren't generous enough, the prisoners would jeer and call us nasty names.

Fifty-five prestigious and knowledgeable delegates attended of whom 39 had been members of the continental congress, one-third had served in the Revolutionary War, 8 had signed the Declaration of Independence, 7 had been state governors, 34 were trained as lawyers, and 15 had helped draft their own state constitutions. The average age of delegates was 42; the youngest was 26, and the oldest (Mr. Benjamin Franklin) was 81. I was 36 years old. We were all men of property concerned about economic growth of our country and threats from within and without our nation. Delegates came and went during our several months of session, so we had perhaps only 30 delegates at a time. New York so resisted adopting a new constitution that their delegates left the convention. Not all revolutionary patriots participated. Patrick Henry was skeptical of my idea of a strong

central government, so he did not join the Virginia delegation. General Washington at first refused to attend for personal and political reasons but agreed later for fear that the people would accuse him of not being a patriot. His presence provided legitimacy and dignity to the proceedings, and he was unanimously elected as president of the convention on the first day.

We discussed the rules for the convention on the second day. Then on the fifth day, Virginia governor Edmund Randolph ended the pretense of reform and attacked the Articles of Confederation. He listed five functions necessary for government but which the Articles of Confederation could not provide. Mr. Randolph introduced a series of fifteen propositions which I had prepared in advance of the convention entitled the Virginia Plan.

Tensions were high throughout the convention. Mr. Elbridge Gerry stated, *Instead of coming here like a band of brothers belonging*

to the same family, we seemed to have brought with us the spirit of political negotiators. Delegates were suspicious of the process and each other; there were conflicting views and differing loyalties (north v. south, large states v. small states), and fear of creating a tyranny which would destroy our hard won liberties. Mr. Franklin suggested that we ask a minister to start each day with prayer to mitigate tempers. Mr. Hamilton stated that *the appearance of a minister would give the impression that the convention was in need of prayer, in deep trouble, and would start rumors.* Others were concerned about funds to pay a minister.

We rejected that to which we had experience: a monarchy and tyranny. Yet republics were rare at the time of our convention and thought to only work on a small scale such as locally or regionally. We created something new to the world. Every single facet of government, though, had to be decided and debated—a day or more for each article.

Articles under consideration during the convention included: branches of government, the power and scope of each branch, the composition of the executive and legislative branches, the length of the presidency and representatives (Hamilton suggested life appointments for the president and Senate), who would elect the president, who would select congressional members, whether foreigners could become members of Congress, how new states were to be added, the process of amendments, the process of ratification, whether there was a need for state governments, the need for a standing national military, the boundaries and limits of rights and duties, who would be responsible for compensating legislators—the state or federal government, and whether legislators could hold other offices. Mr. Luther Martin even proposed that large states be divided into smaller states, and another idea was to combine all states and redistrict them with equal populations.

The governmental composition of three branches was first established by Mr. John Adams when he wrote the state constitution for Massachusetts and provided a model for our convention. These powers must be separate and distinct with their own boundaries to keep the others in their proper places. *In discriminating the several classes of federal power, legislative, executive, or judiciary, the next and most difficult task was to provide some practical security for each against the invasion of others. The accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of one, a few, or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny.*

A president as the nation's executive was not guaranteed in the beginning. Mr. Randolph recommended that three people serve; others suggested a council. The objection to a single executive was based on the loathing of a monarchy. Delegates were reticent to speak because they did not want to offend General

Washington, whom they assumed would be the first president, and did not want to imply that he was not capable by himself.

The decision was made for a single person as the executive branch, but the next question dealt with the length of term. In rejection of a semblance of monarchial rule, a term for life was rejected. *The aim of every political constitution is, or ought to be,*

first to obtain for rulers men who possess most wisdom to discern, and most virtue to pursue, the common good of the society; and in the next place, to take the most effectual precautions for keeping them virtuous whilst they continue to hold their public trust. The elective mode of obtaining rulers is the characteristic policy of republican government. The means relied on in this form of government for preventing their degeneracy are numerous and various. The most effectual one, is such a limitation of the term of appointments as will maintain a proper responsibility to the people. Wilson and Mr. Sherman

recommended a term of three years; Mr. Pinckney and Mr. Mason suggested seven years. A concern was that the term be long

enough to demonstrate national stability to foreign powers and not be *responsive to popular pressure and passions*, yet short enough so that a body of *self-serving aristocrats* was not formed . As with the election of the president and representatives, *frequent elections are unquestionably the only policy by which the dependence and sympathy [of the people] can be effectively secured*. We agreed on four years for the presidency. The question then arose as to how the president would be elected. Mr. Wilson stated that the people should elect the president, but Mr. Mason said that process was impractical. Mr. Rutledge then proposed that the senate elect the president. The difficulty with this plan was that a president elected by the legislature would be beholden to them rather than the people in seeking re-election. An electoral college was the solution. Mr. Wilson and Mr. Hamilton wanted the president to have absolute veto power over legislative decisions, whereas Mr. Gerry, Mr. Franklin, Mr. Sherman, Mr. Butler, and I disagreed because that would give the executive too much power. A conditional veto was

approved where a presidential veto might be overridden by a two-thirds majority in both houses.

There was little disagreement over the powers of the federal congress. They would be able to, and also be limited to: impose taxes, coin money, establish post offices, make treaties, establish a uniform rule of naturalization, raise armies, call up state militias, declare war, and regulate commerce. A proposal was made that the national legislature could veto state laws it deemed to violate the national Constitution, but this was defeated.

The deep divide regarding congress was whether there would be one or two houses and how the legislators would be elected. The number of representatives in a single legislature was contentious. Mr. Brearly asserted that *if representatives are given by quota* [or population], *Virginia would have sixteen votes and Georgia 1. There would be three large states* [Virginia, Massachusetts, and Pennsylvania], *and ten small ones.* Mr. William Paterson from

New Jersey summed up the fears of the small states that if we *give the large states an influence in proportion to their magnitude, what will be the consequence? Their ambition will be proportionally increased.* I believed that *the states are divided into different interests not by their differences of size but by other circumstances, the most material of which resulted partly from climate but principally from the effects of their having or not have slaves.* The true issue to me was of northern states versus southern states. One branch including slaves at a ration of 5 to 3 would give the southern states an advantage in the first house, whereas another branch of free inhabitants only would balance the advantage to the northern states. Mr. Roger Sherman proposed the Connecticut Compromise of two branches with selection of representatives based on different population in the first branch {house] and equal representation in the second branch [senate].

We had a model of two houses to follow in the British parliament — one of the propertied and monied Lords, and one of the commoners. Our resolution was to establish a house comprised of the common people with shorter terms of office balanced and checked by a senate with wealthier and better educated officers who would hold longer terms. As Mr. Randolph so aptly stated, the second branch or senate *must be firm to control the first branch [or house], otherwise it will be overwhelmed by the numbers of the house. it must be firm and stable against encroachments by the executive also.* Mr. Gouverneur Morris agreed that an *aristocratic branch and a democratic branch would provide checks on each other and vices would be turned against each other.*

Mr. Gerry listed four possible modes of selecting senators and outlined inherent problems with the first three: 1. by the first branch [house] which would create a dependency contrary to the end proposed, 2. by the national executive or president which

would tend toward monarchical rule, 3. by the people with the people being primarily landed farmers and no security for commerce and business, or 4. by individual legislatures. I opposed the election of senators by state legislatures as that would strengthen state legislatures and empower states over the federal government. I was defeated.

Nor was there agreement on the selection of representatives to the first branch. Mr. Gerry and Mr. Sherman argued that giving the general people the ability to elect representatives to the house, instead of being elected by state legislatures, would prove disastrous because these *people would lack information and be easily misled*. Mr. Mason debated the opposite that the *people of the house must know and sympathize with every part of their community with different interest and views by districts*. Mr. Wilson contended that *no government could long subsist without the confidence of the people*. *Opposition to federal measures proceeded much more from state officers than the people at*

large. I added that the great fabric to be raised would be more stable and durable if it should rest on the solid foundation of the people themselves than if it should stand merely on the pillars of the legislatures. The vote to allow state legislatures to elect representatives to the house of congress failed by 8 to 3. They would be elected by the general population.

What if our Constitution proved wrong or insufficient? The delegates provided for two means of amendment in Article V. The first is generated within the national congress and ratification of a proposed amendment by two-thirds of the members both houses of congress. Mr. Gerry, concerned about leaving all of the power of amendment to the federal congress, proposed a second method which was agreed upon. Two-thirds of state legislatures may call a convention to consider and ratify an amendment.

Many more issues were debated and decided, and much of the deliberation was based on the fear of corruption. *In all cases*

*where power is to be conferred, the point first to be decided is, whether such a power be necessary to the public good; as the next will be, in case of an affirmative decision, to guard as effectively as possible against a perversion of the power to the public detriment. It is a misfortune incident to republican government, though in a less degree than in other governments, that those who administer it may forget their obligations to their constituents, and prove unfaithful to their important trust. In all countries there are diversity of interests . . . We must therefore introduce in our system provisions against the measures of an interested majority. Mr. Patrick Henry stated, *The Constitution, therefore, is not an instrument for the government to restrain the people, it is an instrument for the people to restrain the government—lest the government come to dominate their lives and interests.**

In the last days of the convention, the draft of the Constitution was submitted to the Committee on Style to polish the writing.

Without discussion beforehand, a preamble was included. I suspect that it was written by Mr. Gouverneur Morris. The preamble begins with the most significant line of “We the People.” There was no objection to this preamble.

We signed the Constitution on September 17 after four months of deliberation. Ten delegates did not sign the Constitution at the convention: four southern delegates, four northern delegates, and two border delegates. Of those ten, seven had returned home prior to the convention’s conclusion. My esteemed Mr. Mason and Mr. Gerry did not sign because a Bill of Rights was not included. Even Mr. Randolph who proposed the Virginia Plan, was reluctant to sign. *It is a matter of wonder and regret that those who raise so many objections against the Constitution would never call to mind the defects of that which is to be exchanged for it. It is not necessary that the Constitution should be perfect; it is sufficient that the Articles of Confederation is more imperfect. No man would refuse to quit a shattered and*

tottering habitation for a firm and commodious building because the latter had not a porch to it, or because some of the rooms might be a little larger or smaller...than his fancy would have planned them.

The Constitution created at our convention required ratification by a two-thirds majority of the states. The process was arduous and not immediate because objections and fears of a stronger central government had to be addressed. New York was so indecisive that Alexander Hamilton, John Jay, and I published the 85 Federalist Papers from October 1787 through May of 1788 to answer concerns article by article. Each was signed Publius as an anonymous name for the public at large, but I singly or co-authored 29 or 34% of the papers.

The first to ratify was Delaware on December 7, 1787. The vote was unanimous in their legislature. Massachusetts was the only state with a close vote. Rhode Island never held a ratification

convention. North Carolina voted not to ratify but did join the Union in November 1789. New Hampshire was the ninth state to ratify on June 21, 1788, making the Constitution the guidance for a nation of the United States.

In Europe, charters of liberty have been granted by power. But American has set the example of charters of power granted by liberty. The Bill of Rights was ratified by Congress on December 15, 1791. *If these rights are well defined and secured against encroachment, it is impossible that government should every degenerate into tyranny. The First Amendment protects our right to think what we like and say what we please. And if we the people are to govern ourselves, we must have these rights, even if they are misused by a minority.*

The advice nearest my heart and deepest in my convictions is that the Union of States be cherished and perpetuated. Every man who loves peace, every man who loves his country, every

man who loves liberty, ought to have it ever before his eyes, that he may cherish in his heart a due attachment to the Union of American and be able to set a due value on the means of preserving it. As my co-patriot Mr. Hamilton stated, If it be asked, what is the most sacred duty and the greatest source of security in a republic? The answer would be an inviolable respect for the Constitution and the laws.