

A PROPHECY FROM THE PAST

This Short Talk Bulletin has been adapted from an article written by the late Most Worshipful Brother Edward F. Carter, P.G.M. Nebraska, and Associate Justice of The Supreme Court of Nebraska.

The citizens of the United States have great pride in their Constitution. They seem to feel that it is a perfect instrument of government which was the result of some blessing that came from on high. The great faith they have in it leads them to believe that it is a perfect and indestructible document. Their confidence in our concept of government tends to lull them into a sense of security and to cause them to pay little heed to the evidences of danger that appear on every hand. The erosion of principle that is occurring should forewarn the eventual loss of freedom and liberty in this land of the free.

The natural tendency of any government is to centralize power which usually ends in some form of dictatorship. The misuse of power by encroachment, interpretation, and usurpation is a constant threat in any constitutional government. The fact that it is done with the most loyal and patriotic intentions does not mitigate the danger. The growth of the federal government at the expense of the states in all three of the branches tends to destroy the philosophy that division of power is an adequate check against centralized and dictatorial authority. The fathers of our Constitution had two main reasons for creating the governmental structure that they did: First, they feared the excessive centralization of power and, Second, they wanted to secure the diversified control of political authority. Aristotle warned of the dangers that arise when a government of laws is corrupted by a government of men. In his *Politics*, Aristotle praises the rule of law and says: "Therefore, he who bids the law rule may be deemed to bid God and Reason alone rule, but he who bids man rule adds an element of the beast; for desire is a wild beast, and passion perverts the minds of rulers, even then they are the best of men. The law is reason unaffected by desire."

The same concept was advanced by William Grayson in the Virginia Ratification Convention in 1788 when, in opposing ratification of the Constitution, he said: "Mr. Chairman, it seems to have been a rule with the gentlemen on the other side, to argue from the excellence of human nature, in order to induce us to grant away the rights and liberties of our country. I have no doubt the same arguments were used on a variety of occasions. I suppose, Sir, that same argument was used when Cromwell was invested with power. The same argument was used to gain our assent to the Stamp Act. I have no doubt it has been invariably the argument in all countries when the concession of power has been in agitation. But power ought to have such checks and limitations as to prevent bad men from abusing it. It ought to be granted on a supposition that men may be bad; for it may be eventually so."

A reading of current newspapers and periodicals will reveal the encroachments, misinterpretations, and outright usurpations of power that are taking place within our constitutional system. Our Constitution did not come to us like manna from heaven; it was a

compromise resulting from argument and dispute. Like any compromise, it was not perfect. But an examination of the fragmentary records of the convention reveals that its drafters were familiar with the dangers of encroachment, misinterpretation, and usurpation. The issue was the adequacy of the language to prevent their occurrence. It is my purpose here to discuss the arguments of those opposed to the adoption of the Constitution in order that you may relate them to the things that are going on about us.

In 1787 a constitutional convention was authorized to convene for the purpose of amending the Articles of Confederation under which the country was then governed. Upon convening, it was determined that amendments of the Articles would not accomplish the intended purpose and the drafting of a complete new Constitution was agreed upon. Seventy-four delegates were elected by the states. Fifty-five delegates were the most that ever attended. Rhode Island was never represented and was hostile to the whole idea. After almost four months of debate, the convention met on September 17, 1787, to adopt the finished product. But forty-two delegates were in attendance. The Constitution was signed by George Washington, the president of the convention, and thirty-eight other delegates. What of the three who did not sign?

These three, giants by every measure of patriotism and public service, were Elbridge Gerry of Massachusetts and Edmund Randolph and George Mason of Virginia. Elbridge Gerry was later Governor of Massachusetts and Vice President of the United States under James Madison. His comments, recorded by Madison in his journal of the proceedings, reflected the great concern for economic stability and his faith in the free enterprise system. He wanted every protection given to property, the guarding of the public credit, and the protection against the impairment of contracts. He insisted on stronger provisions on these subjects. Gerry repeatedly objected to the authority given the government over business and commerce, and insisted that the powers of government in this area be spelled out.

The 33-year old Randolph had been Washington's aide serving the revolution and at 23 had been the first attorney general of Virginia. He was Governor of Virginia at the time of the Convention and later became the first attorney general of the United States, and when Thomas Jefferson resigned the position, he became the second Secretary of State of the United States. Lawyer-like, he voiced great concern over the locations and brevity of many of the clauses of the Constitution. He greatly feared that some day much of the general wording of the Constitution would be misinterpreted and given a meaning totally different from that intended by the framers.

The aristocratic George Mason was a wealthy landowner, an aristocrat, cynic, critic and intellectual. He exhibited insight far surpassing the understanding of most of his listeners in his frequent expressions regarding the rights of the states. He complained that the confederation was being converted into a consolidated government which he asserted was subversive of every principle of the confederation. He contended the critical power was calculated to annihilate totally the state governments. He insisted that the central government would become the more powerful and would eventually destroy the states by absorbing their powers.

These three men stood and resolutely refused to sign the Constitution and you will not find their names attached thereto. In the light of current events, the reasons for their refusal to sign seem more prophetic now than they did then.

The Constitution provided that nine of the thirteen states must ratify before it became effective. It was known that Rhode Island would not ratify. The other eight states north of Virginia ratified rather promptly. It was also known that North Carolina, South Carolina and Georgia would follow the lead of Virginia on this question. Virginia, therefore, became the pivotal state.

On June 2, 1788, the Virginia Ratification Convention convened. It produced one of the greatest dramas in American political history. Among the delegates were a dozen of the greatest figures of the Revolutionary period—James Madison, George Mason, James Monroe, John Marshall, Edmund Randolph, Edmund Pendleton, George Wythe, Henry Lee, William Grayson, George Nicholas, and Patrick Henry. For three weeks of brilliant and often passionate argument they subjected the proposed new Constitution to exhausting debate. Out of the yellowing pages of the reports these figures emerge with startling clarity--the brooding, doubting Randolph; the soft-spoken and scholarly Madison; Mason of the golden tongue; the sober Marshall; and dominating the whole play, as statesman, prophet, Shakespearean actor, the eloquent figure of Patrick Henry, chief foe of the Constitution. The proponents of ratification were led by Madison and Pendleton, the opposition by Henry and Mason. Randolph reversed his previous stand and became a proponent because, as he said, it was the last opportunity to hold the thirteen states together as a union, a result that was paramount to all others in his thinking. All of the arguments made in the 1787 convention were repeated with both great intelligence and much heat. The purposes of this article will be subserved by a review of the arguments of Patrick Henry, the greatest orator of his time.

He argued that this was to be a union of states and that the preamble of the Constitution should read "We, the states" and not "We, the people." He argued that men who wished to preserve their liberty must always be suspicious of government. Suspicion is a virtue, he said, as long as its object is the preservation of the public good and as long as it stays within proper bounds. All power, he foresaw, ultimately would end in the hands of the central government. Can the annals of mankind, he asked, exhibit one single example where rulers overcharged with power, willingly let go the oppressed? He ridicules the idea that the checks and balances provided would for long stay the centralization of power. He was a friend of the idea of achieving union but, he said: "I am a lover of the American union; the dissolution of the union most abhorrent to my mind; but, sir, the first thing I have at heart is American liberty; the second thing is American union." In colorful, lilting phrases, he swept the Convention fore and aft. He contended the judiciary was oppressively constructed and that the powers of the President were excessive--the powers of a king. Henry and Mason foresaw taxation. The proponents saw the danger, they said, since there was every reason to believe it and said:

"The splendid maintenance of the President and of the members of both houses, and the salaries and fees of the swarm of officers, and dependents of the government, will cost this continent immense sums." He returned to his main point, the centralization of power. He said, "Too much suspicion may be corrected. If you give too much power today, you cannot retake it tomorrow--for tomorrow will never come for that purpose." The strongest point of all was the criticisms of the Constitution in failing to provide the states a means of defense against encroachment, misinterpretation, and usurpation by the federal government against the reserved powers of the states. It is true that the states were left helpless without a means of defense and that they must rely upon the conscience of the federal government, and the officials who represent it, to

conform itself to the provisions of the Constitution. Current situations bring this criticism to the front in bold relief.

In the end, Virginia ratified. The vote was 89 to 79. A change of 6 votes would have kept Virginia, at least temporarily, out of the new union. Such a change in the vote could have stopped the infant nation in its tracks. But the proponents won. The antagonists, however, mutually left to posterity a fascinating example of shrewd prophecy, keen insight, and learned debate on the rule of government in a free society. Probably no other political convention better understood and expressed a keener knowledge of the relationship of government to the governed than this group of political giants who met in the New Academy on Shocke Hill in Richmond, Virginia, in the summer of 1788.

The maintenance of our constitutional system is, in the final analysis, dependent upon the will and wisdom of the people. A backward look at the powerful prophecy of those men who foresaw in 1788 the trend of events in 1965 can furnish the energy to arouse us from our indifference and complacency in these matters of basic importance. The lessons growing out of this early American experience can point the way to Freemasons in the inculcation of patriotism, in building respect for law and order, and in developing our undying loyalty to the Constitution of the United States as it was written and intended to mean. The warnings of the past should not be disregarded in reflecting on the gravity of our fears for the future.

The importance of maintaining the states in their proper role in the government rests on many grounds. One of primary importance is that no national government, however benevolent, can be as closely in touch with those who are governed as can the local authorities in the several states. Political wisdom is not concentrated in Washington alone. It exists also in state capitals, state agencies, and among the people themselves. In many fields peculiar to the individual state, the state may experiment with varying remedies. Some experiments will fail as is to be expected, but the consequences may be confined; if it succeeds it may be emulated.

The Virginia Commission on Constitutional Government, the political descendants of the great men of that state who participated in the drafting and ratification of the Constitution, aptly summarized the situation in a recent document as follows: "Today it is apparent to even the most casual eye that the house of our fathers has fallen into decay. The great beams that give it strength--the separation of powers within the central government, the division of responsibility between the States and the Federal authority--now tend to crumble under subtle and insidious attack. The men who framed the Constitution build tight doors hung awry, and a cold wind of judicial construction sweeps along its corridors. The States themselves, falling into impotence, often seem helpless to halt the destruction. And too many Americans afflicted with the ills of an affluent society, are indifferent to the fundamental principles by which the greatness of the American Republic was achieved."

The eternal principles that control the best relationship between government and the governed in a Republic are not dead. They have become obscured by the ill effects of our affluent society. Our people need to be aroused to the dangers of indifference and complacency if the inherent dangers of unrestrained government are to be avoided.

