

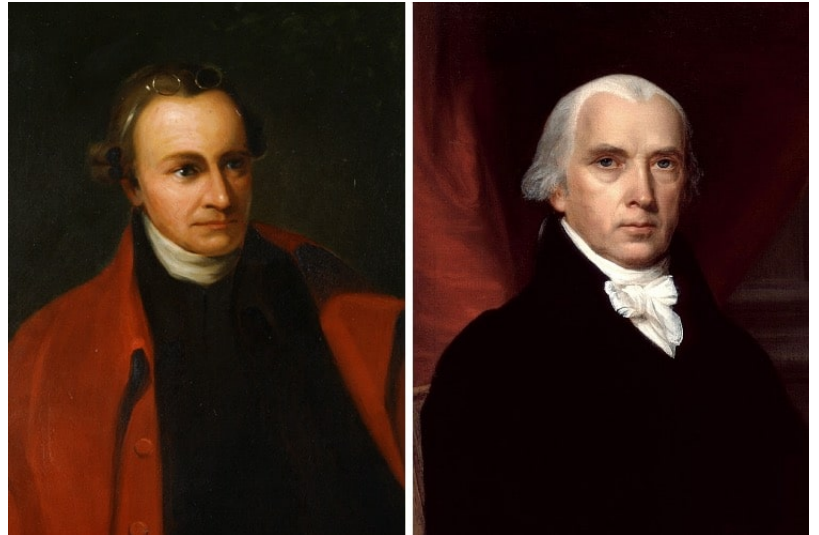


Written by [Joe Wolverton, II, J.D.](#) on June 27, 2023

Clash of the Titans: Patrick Henry and James Madison and the Virginia Ratifying Convention of 1788

Anytime anybody asks me what books I would recommend to someone who wants to learn more about the Constitution and to understand exactly what the Founding Fathers meant to accomplish by drafting and ratifying that document, they are very surprised by one of the texts I recommend reading: the record of the Virginia Ratifying Convention.

While *The Federalist* and *Anti-Federalist Papers* (as they are popularly known) are outstanding expositions of American political philosophy at the time of the ratification of the Constitution, pound for pound you cannot beat the battle that took place in June 1788 between two of the brightest stars in the firmament of the Founding Fathers: Patrick Henry and James Madison.



Patrick Henry and James Madison

Have you read the discourses delivered during that clash of titans? Passionate and persuasive, eloquent and erudite, these now-forgotten speeches will teach more about the Constitution and the understanding of its clauses at the time it was written than any year-long course offered at any college anywhere!

And a quick note: Patrick Henry and James Madison aren't the only two varsity-squad Founding Fathers who spoke at the Virginia Ratifying Convention. George Mason, Richard Henry Lee, Edmund Randolph, James Monroe, and John Marshall are just a few of the other notable statesmen who delivered insightful discourses that June in Richmond.

Patrick Henry, known for his fervent oratory and deep-rooted skepticism of centralized power, delivered a speech at the Virginia Ratifying Convention that reverberated with passionate arguments against the proposed Constitution. Henry questioned the wisdom of replacing the existing Articles of Confederation with a stronger federal government. He ardently voiced concerns that this consolidation of power would infringe upon the rights of individual states and the liberties of the American people.

Henry's address centered on the absence of a Bill of Rights in the proposed Constitution. He vehemently argued that the document, as it stood, had the potential to enable tyranny and undermine the hard-fought freedoms won during the War for Independence. To Henry, safeguarding individual liberties required explicit protections, enshrined in a Bill of Rights, to restrict the power of the federal government.

In stark contrast to Henry's skepticism, James Madison, hailed as the "Father of the Constitution," presented a meticulously crafted defense of the proposed framework. Madison emphasized the need for a balanced government that would prevent the tyranny of both the majority and the minority. His



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speech highlighted the Constitution's provisions for separation of powers, checks and balances, and the protection of individual rights.

It is no exaggeration to declare that a thorough study of the content of the speeches delivered by Patrick Henry, James Madison, and others at the Virginia Ratifying Convention of 1788 would do more to help solve some of our contemporary problems than all the pablum from all the pundits and podcasters that seem to be all hat and no cattle.

If we are wise, we will spend a little less time drinking downstream in waters muddied by the manifold talking heads and profiting pundits who dominate contemporary political discourse, and a little more time drinking straight from the source, directly from the spring of sweet water that came forth out of the Virginia Ratifying Convention of June 1788.

Now for some of the rhetorical haymakers thrown by Henry and Madison:

Patrick Henry:

And here I would make this inquiry of those worthy characters who composed a part of the late federal Convention. I am sure they were fully impressed with the necessity of forming a great consolidated government, instead of a confederation. That this is a consolidated government is demonstrably clear; and the danger of such a government is, to my mind, very striking. I have the highest veneration for those gentlemen; but, sir, give me leave to demand, What right had they to say, We, the people? Who authorized them to speak the language of, We, the people, instead of, We, the states? States are the characteristics and the soul of a confederation. If the states be not the agents of this compact, it must be one great, consolidated, national government, of the people of all the states. The people gave them no power to use their name. That they exceeded their power is perfectly clear. It is not mere curiosity that actuates me: I wish to hear the real, actual, existing danger, which should lead us to take those steps, so dangerous in my conception. Disorders have arisen in other parts of America; but here, sir, no dangers, no insurrection or tumult have happened; every thing has been calm and tranquil. But, notwithstanding this, we are wandering on the great ocean of human affairs. I see no landmark to guide us. We are running we know not whither.... The federal Convention ought to have amended the old system; for this purpose they were solely delegated; the object of their mission extended to no other consideration.

[T]hirteen states, confederated together.... Was the existence of the country threatened — or was this preceded by a mournful progression of events? This proposal of altering our Federal Government is of a most alarming nature.... You ought to be extremely cautious, watchful, jealous of your liberty; for instead of securing your rights you may lose them forever. If a wrong step be now made, the republic may be lost forever. If this new government will not come up to the expectation of the people, and they should be disappointed — their liberty will be lost, and tyranny must and will arise.

James Madison:

Since the general civilization of mankind, I believe there are more instances of the abridgment of the freedom of the people, by gradual and silent encroachments of those in power, than by violent and sudden usurpations: but on a candid examination of history, we



shall find that turbulence, violence and abuse of power, by the majority trampling on the rights of the minority, have produced factions and commotions, which, in republics, have more frequently than any other cause, produced despotism. If we go over the whole history of ancient and modern republics, we shall find their destruction to have generally resulted from those causes.

If we consider the peculiar situation of the United States, and what are the sources of that diversity of sentiments which pervades its inhabitants, we shall find great danger to fear, that the same causes may terminate here, in the same fatal effects, which they produced in those republics. This danger ought to be wisely guarded against. Perhaps in the progress of this discussion it will appear, that the only possible remedy for those evils, and means of preserving and protecting the principles of republicanism, will be found in that very system which is now exclaimed against as the parent of oppression. I must confess, I have not been able to find his usual consistency, in the gentleman's arguments on this occasion: he informs us that the people of this country are at perfect repose; that every man enjoys the fruits of his labor, peaceably and securely, and that every thing is in perfect tranquility and safety. I wish sincerely, sir, this were true. If this be their happy situation, why has every state acknowledged the contrary? Why were deputies from all the states sent to the general convention? Why have complaints of national and individual distresses been echoed and re-echoed throughout the continent? Why has our general government been so shamefully disgraced, and our constitution violated? Wherefore have laws been made to authorise a change, and wherefore are we now assembled here? A federal government is formed for the protection of its individual members.

Patrick Henry:

That government is no more than a choice among evils, is acknowledged by the most intelligent among mankind, and has been a standing maxim for ages. If it be demonstrated that the adoption of the new plan is a little or a trifling evil, then, sir, I acknowledge that adoption ought to follow; but, sir, if this be a truth, that its adoption may entail misery on the free people of this country, I then insist that rejection ought to follow. Gentlemen strongly urge, its adoption will be a mighty benefit to us; but, sir, I am made of so incredulous materials, that assertions and declarations do not satisfy me. I must be convinced, sir. I shall retain my infidelity on that subject till I see our liberties secured in a manner perfectly satisfactory to my understanding.

And can any man think it troublesome, when we can by a small interference prevent our rights from being lost? — If you will, like the Virginian Government, give them knowledge of the extent of the rights retained by the people, and the powers themselves, they will, if they be honest men, thank you for it. — Will they not wish to go on sure grounds? — But if you leave them otherwise, they will not know how to proceed; and being in a state of uncertainty, they will assume rather than give up powers by implication. A Bill of Rights may be summed up in a few words. What do they tell us? — That our rights are reserved. — Why not say so? Is it because it will consume too much paper? Gentlemen's reasonings against a Bill of Rights, do not satisfy me. Without saying which has the right side, it remains doubtful. A Bill of Rights is a favourite thing with the Virginians, and the people of the other



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States likewise. It may be their prejudice, but the Government ought to suit their geniuses, otherwise its operation will be unhappy. A Bill of Rights, even if its necessity be doubtful, will exclude the possibility of dispute, and with great submission, I think the best way is to have no dispute. In the present Constitution, they are restrained from issuing general warrants to search suspected places, or seize persons not named, without evidence of the commission of the fact, &c. There was certainly some celestial influence governing those who deliberated on that Constitution: — For they have with the most cautious and enlightened circumspection, guarded those indefeasible rights, which ought ever to be held sacred. The officers of Congress may come upon you, fortified with all the terrors of paramount federal authority. — Excisemen may come in multitudes: — For the limitation of their numbers no man knows. — They may, unless the General Government be restrained by a Bill of Rights, or some similar restriction, go into your cellars and rooms, and search, ransack and measure, everything you eat, drink and wear. They ought to be restrained within proper bounds. With respect to the freedom of the press, I need say nothing; for it is hoped that the Gentlemen who shall compose Congress, will take care as little as possible, to infringe the rights of human nature. — This will result from their integrity. They should from prudence, abstain from violating the rights of their constituents. They are not however expressly restrained. — But whether they will intermeddle with that palladium of our liberties or not, I leave you to determine.

James Madison:

When the gentleman called our recollection to the usual effects of the concession of powers, and imputed the loss of liberty generally to open tyranny, I wish he had gone on further. Upon a review of history he would have found, that the loss of liberty very often resulted from factions and divisions; from local considerations, which eternally lead to quarrels — he would have found internal dissensions to have more frequently demolished civil liberty, than a tenacious disposition in rulers to retain any stipulated powers.

But it is urged, that its consolidated nature, joined to the power of direct taxation, will give it a tendency to destroy all subordinate authority; that its increasing influence will speedily enable it to absorb the state governments. I cannot think this will be the case. If the general government were wholly independent of the governments of the particular states, then indeed usurpation might be expected to the fullest extent: but, sir, on whom does this general government depend? It derives its authority from these governments, and from the same sources from which their authority is derived. The members of the federal government are taken from the same men from whom those of the state legislatures are taken. If we consider the mode in which the federal representatives will be chosen, we shall be convinced, that the general will never destroy the individual governments.



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