

they would have liked to have had together because Mike was so busy as majority leader.

I said: You two don't get much chance to be together. I am going to leave so you can have some time together.

I did. I walked out. I could tell they liked it very much. Maureen's eyes twinkled and smiled. I say this because Maureen always smiled. She was always optimistic, always upbeat, always helping people, always a very kind person, self-effacing, a lady of few words but uncommon talent and knowledge and wisdom.

She attended St. Mary's University, a women's college which was then attached to Notre Dame in Indiana. She got her master's degree in English in 4 years, which was quite a feat for women in those years. She read constantly. She was always taking home books from the Library of Congress.

I believe if one looks throughout history, very often people who read a lot are wiser, have more confidence in themselves, and have a greater imprint upon other people in a positive way. I am thinking of people such as Harry Truman. He read a lot. Justice Blackmun read a lot, and Maureen was one of those who constantly read and was just a wonderful influence on Mike.

Let me give a couple examples to demonstrate just how much Mike believed in Maureen.

We all know that Mike never took credit for what he did. Maureen never took credit for all that she did. It was an era, a time when people did not take credit for what they did. They just did a good job. That was in the sixties, seventies, less so in this era.

Whenever somebody wanted to credit Mike for his tremendous accomplishments, Mike would always insist: No, Maureen is first. Whatever I did, Mike Mansfield, whatever honors I had is because of Maureen.

It is true. Often the people of the State of Montana would say: OK, Mike, we want to dedicate a building to you, the Mansfield Center.

Mike would say: No, it has to be the Maureen and Mike Mansfield Center, and they would agree.

The legislature in Montana wanted to create a statue honoring Mike Mansfield, one of the most famous Montanans in our State's history. "No way," Mike said, "unless it is a statue of Maureen and myself." Otherwise he was very much opposed. The legislature agreed.

I wish you could have seen the two of them together. They were always together. They celebrated their 68th wedding anniversary last March. They were married 68 years, solidly helping to reinforce each other. They were always together helping each other.

I asked Mike once: Mike, you have lived such a rich life. When are you going to write your memoirs?

Mike said: I am not going to.

I asked why.

He said: I was told so much in confidence, it would not be proper for me

to write memoirs. Those are confidential statements.

And that is Maureen. The two of them were just like that. I am sure Maureen's influence on Mike helped make Mike the great, wonderful person he is, and it was mutually reinforcing. I also have a view that teachers tend to be more dedicated than most other professions. After all, teachers are servants in a sense. If one looks at achievers, very often one of their parents was a teacher or there was a teacher somewhere in the family.

Maureen was a teacher. She was a teacher in the public school system. Mike was a teacher at the University of Montana. The best lessons they taught us were by example: Honest as the day is long; their word is their bond; upbeat, positive, contributing, giving, thinking, searching for a better way for more people.

I believe the most noble human endeavor is service—service to community, to church, to family, to friends, to State, whatever makes the most sense for an individual. Maureen Mansfield served her husband, her State, and her country more than any other person I have had the privilege to know or to meet and with such grace, such style, and such inspiration.

I stand here today, Mr. President, in great honor of Maureen Mansfield, in awe of the wonderful love affair between Mike and Maureen. As many of Maureen's Indian friends would say: This is not goodbye; we will see you later.

I thank the Chair.

The PRESIDING OFFICER (Mr. SHELBY). The Senator from West Virginia.

Mr. BYRD. Mr. President, I again thank the distinguished majority leader for arranging for me to have this time.

#### THE 213TH ANNIVERSARY OF THE SIGNING OF THE U.S. CONSTITUTION—SEPTEMBER 17, 1787

Mr. BYRD. Mr. President, in commemoration of the signing of the Constitution and in recognition of the importance of active, responsible citizenship in preserving the Constitution's blessings for our Nation, the Congress, by joint resolution of August 2, 1956 (36 U.S.C. 159), requested that the President proclaim the week beginning September 17 and ending September 23 of each year as "Constitution Week." That has happened each year since.

This week the United States celebrates one of its greatest achievements. Two-hundred and thirteen years ago, on September 17, 1787, the Founding Fathers placed their signatures on the newly created Constitution in Philadelphia's Independence Hall. Eleven years earlier, 6 of the 39 signers of the U.S. Constitution signed the Declaration of Independence in the same building in Philadelphia. Within the lifespan of a single generation, Americans had effectively declared their independence twice.

In many ways, the liberation claimed from Britain in 1776 was less remarkable than the historical achievement that Americans claimed by framing the Constitution in 1787. The Constitution represented a triumph of political imagination and pragmatism by recognizing that ultimate political authority resides not in the government, or in any single government official, but rather, in the people.

The Founding Fathers had used the doctrine of popular sovereignty as the rationale for their successful rebellion against English authority in 1776 when they framed the Declaration of Independence. They argued that the government's legitimacy remains dependent on the governed, who retain the inalienable right to alter or to abolish their government. The Declaration of Independence set forth their justifications for breaking with Britain, but, until September 17, 1787, they had not yet been able to work out fully how to implement principles of popular sovereignty, while, at the same time, preserving a stable government that protects the rights and liberties of all citizens. The Constitution is a mechanism for advancing the principles of the American Republic stated so eloquently in the Declaration of Independence. To paraphrase former Chief Justice Warren Burger, the Declaration is the promise, the Constitution is its fulfillment.

The new republican union created in 1776 was a truly unprecedented experiment, whose future was very much in doubt. Not only were the former British colonies unsure of whether they would be successful in their war for independence, but there was also doubt that the American colonials would be able to create a stable republican government, able to protect the rights and liberties of its citizens, without backsliding into the same authoritarian rule experienced under Britain. For this reason, it is appropriate that we take this moment, 213 years later, to reflect on a document that completed an uncertain process that was begun, from a documentary standpoint, on July 4, 1776.

I have spoken on several occasions about the taproots and the origins of the U.S. Constitution. Of course, the State constitutions, some of which had been in existence since early 1776, greatly influenced the framers. Many of the ideas in the State constitutions had already been tested under colonial experience, and as a matter of fact, under the British experience, and were later reborn in our national charter. The establishment of a national bicameral legislature finds its roots in at least 9 out of 13 State constitutions. Of course, the roots extended prior to that but in at least 9 of the 13 State constitutions we find the enlargement of the roots, the fleshing out of the roots, the nourishing of the roots.

Lessons derived from recent political experiences were arguably as likely to influence the thinking of the founding

framers as the maxims and axioms of, among others, the English philosophers John Locke, Sir William Blackstone—one of the great legal authorities of all time—John Milton—that great author of “Paradise Lost” and “Paradise Regained”, Algernon Sydney, and other great works—Scottish philosopher David Hume, and French philosopher Baron de Montesquieu, all of whom were part of the intellectual Enlightenment period.

Likewise, many of the institutional practices embedded in the U.S. Constitution hark back to England and its Constitution, which, although it is largely unwritten, does contain such written documents as the Magna Carta, the Petition of Right, and the English Bill of Rights. Many of the amendments incorporated into the U.S. Bill of Rights can be found, almost word for word, in those political documents.

But, to truly understand and appreciate the U.S. Constitution and the political movement that led to its creation, one must become familiar with the first national charter that was established by the newly independent colonies—namely, the Articles of Confederation.

Many Americans have heard of the Articles of Confederation, fewer Americans probably ever read those Articles of Confederation.

The operation of government under that national charter provided the most visible examples of what republicanism meant in practice. Its failure not only drove the movement for constitutional reform—when I say “its failure,” I mean the failure of the Articles of Confederation—not only drove the movement for constitutional reform that brought the framers to Philadelphia in 1787, but also brought experimental evidence—ah, how important was that experimental evidence—from which the framers drew in creating a greatly improved model of republican government.

From its inception, the first national charter—the Articles of Confederation—had limited goals. The Articles provided for what was essentially a continuation of the Second Continental Congress by creating a unicameral legislature, where each State was represented with one vote. This body had the authority to declare war, to conduct diplomacy, to regulate Indian affairs, to coin money, and to issue currency, among other things. However, to limit the threat of a centralized authority, Congress could not levy taxes or regulate trade. The crucial power of the purse rested solely with the States, which were to contribute funds at the request of the Congress. The Articles further limited centralized power by providing the States with total enforcement authority so that the Congress could do no more than to recommend policies to the States. When it came to money, it could do no more than just request the funds from the States. The States, which then could accept or ignore these recommenda-

tions, most of the time failed to provide the funds. Many times the States would provide some of the funds but not all of the funds requested.

Looking back, the inherent weaknesses of the Articles seem obvious now, but all of these limitations on the Congress were designed with the specific intention of making the State legislatures the dominant force in the Government. This may seem peculiar to us today, but, at the time, loyalty to the State Governments rather than to the Nation underlaid the mentality of post-war America. We oftentimes forget that the Articles were drafted in 1777 in the midst of the Revolutionary War. At the time, delegates were more concerned about keeping up with the demands of the Continental army, and, perhaps more importantly, avoiding capture by the British army which had occupied New York City and Philadelphia in 1777 than in drafting a national charter. In fact, it was not until 1781—4 years later—that the Articles of Confederation had been ratified by the thirteen States. With the new Nation in the midst of a military crisis, Congress assumed correctly that the States would contribute funds and men to the common defense. From the Framers’ perspective—the framers of the Articles of Confederation—the greatest problem in 1777 was curbing executive power. And that is still a problem today. What had driven the colonies into rebellion was an abuse of executive power by the king, his ministers, and his agents. To ensure that the executive could never again threaten the popular liberty, national government was made subservient to the States in order to preserve the sovereignty of the States.

What ultimately began to alter the American psyche can only be described as Congress’ impotence in addressing incidents of unrest in the Nation. Efforts had been underway to amend the Articles even before they took effect on March 1, 1781. One week earlier, Congress had asked the States to approve an amendment authorizing it to collect a five percent tariff on imported goods. This amendment was the outgrowth of the economic condition of the country at the time. By 1781, American merchants found themselves deeply in debt after the British and French closed markets in the Caribbean to their trade, and Americans continued to import large amounts of luxury goods. At the same time, the Congress and States were printing paper money to finance their debts, which were backed only by their promise to redeem the bills with future tax receipts. By 1781, the currency had become worthless and led Americans to coin the expression, “not worth a continental.” The printing of paper money combined with a wartime shortage of goods led to an inflationary spiral of fewer and fewer goods costing more and more money. The goal of the amendment introduced in February 1781 was to tax imports, which would simultaneously reduce the demand for

imports while forcing British and French merchants to open their Caribbean trade routes. The amendment would ultimately fail when Rhode Island refused to approve it.

Congress was faring no better in foreign diplomacy. In 1784, Spain closed New Orleans and the Mississippi river to American trade, preventing settlers living to the west of the Appalachian mountains from shipping their goods to the Gulf of Mexico, and thence to other markets. This action, coupled with the abortive separatist movements in Kentucky and Tennessee, threatened to divide the American Nation into two or three separate confederacies by forcing southwestern territories to accommodate themselves to Spain. In 1785, Congress instructed Secretary of Foreign Affairs John Jay to negotiate a treaty with Spain that would allow the southwestern States to navigate the Mississippi, and thus, ensure southwestern loyalty to the American Nation. The Spanish emissary, Don Diego de Gardoqui, however, proved to be the more formidable diplomat. He convinced Jay to sign a treaty by which the United States would relinquish all rights to the Mississippi for twenty-five years in return for Spain acknowledging U.S. territorial claims in the southwest. When the treaty became public knowledge, however, southwestern territories were outraged, further dividing the Nation. Congress attempted several times in the 1780s to give Congress greater authority to regulate both foreign and interstate commerce. The amendments, however, were never unanimously approved by the States.

In both of these matters of diplomacy and economics, Congress under the Articles of Confederation, found that its proposals would founder on the requirement of unanimous State ratification. This requirement led the supporters of a stronger national government to believe that such a policy could only be pursued through a limited, piecemeal approach. The desultory history of all of the amendments that Congress had fruitlessly considered since 1781 suggested that more radical approaches stood little chance. However, by 1786, it became clear that the states stood little chance of ever unanimously agreeing to amendments. With Congress losing what little influence it had, it soon became clear to a group of Virginians that any reform efforts would have to first come from the states.

The most important effort toward reform therefore took place in Virginia in January 1786, when the state legislature approved a resolution calling for an interstate conference to consider vesting more power in the confederation Congress to regulate commerce. The Convention was to take place in Annapolis, Maryland, and, although only five states sent delegates to attend the Annapolis convention in September 1786, the delegates did agree to a second convention in Philadelphia “. . . to devise such further provisions

as shall appear to them necessary to render the constitution of the federal government adequate to the exigencies of the union." The potential radical thrust of this proposal suggests that the gradual strategy of reform had collapsed, and that many of those present had turned to a desperate maneuver after having exhausted all other measures. Among those present were Hamilton and Madison.

Yet, up until the winter of 1786–1787, when the Shays' Rebellion took place, the Founding Fathers did not suggest that the Philadelphia convention should address anything other than the conspicuous failings of the Articles.

However, events in Massachusetts in the winter of 1786–1787 cast the problems of the nation in more comprehensible terms. Shays' Rebellion began as a protest by Massachusetts farmers laboring under heavy state taxation and private debt. Led by Daniel Shays, a veteran of the Revolution, an armed mob of two thousand men marched on the federal arsenal in Springfield, Massachusetts, and closed the county courts to halt creditors from foreclosing on any more farms. The State Militia quelled the uprising, but the news of the event left the rest of the country shaken. The Massachusetts state constitution was widely considered the most balanced of the revolutionary charters. If the Massachusetts state government could not protect the property of its citizens, one of the most fundamental aims of Republican government, how could the less balanced state and national governments endure if such unrest spread?

As Minister to France in 1787, Thomas Jefferson dismissed Shays' Rebellion. "A little rebellion now and then is a good thing," he wrote James Madison on January 30, 1787, "and as necessary in the political world as storms in the physical." Madison was hardly inclined to agree. As he examined the "vices of the political system of the United States" in the early months of 1787, he became convinced that the agenda of the upcoming convention should not be limited to the failings of the Articles. The time had come to undo the damages caused by the excesses of republicanism.

But, consider for a moment the odds that were against the delegates in crafting a workable government. The record of reform was hardly encouraging. The states had taken more than three years to ratify the Articles, and in the six years since, not one amendment that Congress had proposed to the states had been approved. There was also the question of whether the Congress should endorse the Philadelphia convention. By 1787, its reputation had fallen so low that it was unclear whether its endorsement would aid or kill reform efforts. Moreover, the convention had to attract an impressive array of legal minds to lend validity to whatever document would be produced. Yet, there was little guarantee that the convention would muster such per-

sons. Even George Washington, who among all others probably most recognized the need for the convention, was hesitant to attend for fear that his reputation would suffer if the convention should fail. He accepted the invitation reluctantly at the urging of Madison, and even then, not until the last minute. But, perhaps more importantly, the Articles never provided for such a device of amending the Confederation, which caused many in Congress to question the propriety of the convention. After all, if the conventional delegates did produce a revised document, would it be considered law if the Articles never allowed for a constitutional convention in the first place?

In the face of these obstacles, any proposal put forth by the Framers would have to be more complex than that of simply shifting the powers of taxation and regulation of commerce from the state governments to a national government. Because the state governments were already entrenched, it was unlikely that the states would agree to the creation of a powerful central government at the expense of their self-governing authority. Granting the states specific self-governing powers and rights was not only politically expedient, but also served the Framers' intent to limit the central government's authority. The sharing of power between the states and the national government was one more structural check in what was to be an elaborate governmental scheme of checks and balances. The Framers further decentralized authority through a separation of powers, which distributed the business of government among three separate branches.

This ensured against the creation of too strong a national government capable of overpowering the individual state governments.

In a seemingly paradoxical fashion, governmental powers and responsibilities were also intentionally shared among the separate branches. Congressional authority to enact laws can be checked by an executive veto, which in turn can be overridden by a two-thirds majority vote in both houses; the President serves as commander-in-chief, but only the Congress has the authority to raise and support an army, and to declare war; the President has the power to appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, but only by and with the advice and consent of the Senate; and the Supreme Court has final authority to strike down both legislative and presidential acts as unconstitutional. This balancing of power is intended to ensure that no one branch grows too powerful and dominates the national government.

What happened in Philadelphia was then truly remarkable. Committed at first to limiting executive power by making state legislatures supreme,

Americans created a constitution that provided for an independent executive branch and a balanced government. Committed at first to preserving the sovereignty of states, Americans drafted a constitution that established a national government with authority that was independent of the states.

So each of the two—the National Government and the State governments—was supreme in its own sphere and, yet, separate, in a sense, and overlapping.

Doubtful at first that a strong national republic was possible, Americans created a strong national republic that still endures.

"The real wonder," James Madison wrote in Federalist Number 37, "is that so many difficulties should have been surmounted, and surmounted with a unanimity almost as unprecedented as it must have been unexpected. It is impossible for any man of candor to reflect on this circumstance without partaking of the astonishment. It is impossible for the man of pious reflection not to perceive in it a finger of that Almighty hand which has been so frequently and signally extended to our relief in the critical stages of the revolution."

There is a story, often told, that upon exiting the Constitutional Convention Benjamin Franklin was approached by a group of citizens asking what sort of government the delegates had created. "A republic, Madame," he answered, "if you can keep it." Characteristic of Franklin's statements, we should not allow the brevity of his response to undervalue its essential meaning: it is not enough that democratic republics are founded on the consent of the people; they are also absolutely dependent upon the active and informed involvement of the people.

Yet, opinion polls show that Americans have either never read the Constitution or have forgotten most of what they learned about it in school. The Constitution and the Declaration of Independence are the common bonds that unite the nation because they articulate our political, moral, and spiritual values. To a degree Americans recognize the ideologies of liberty and freedom that are contained in these documents, but we should also recognize that these beliefs were shaped by the political climate in large part in which they occurred. Too often these ideals are used as catch phrases to describe the founding documents which can obscure the complex political processes that produced both the Declaration of Independence and the Constitution. The post-Revolutionary era provides Americans with perhaps the clearest examples of why the Constitution is so vital to the stability of the country and the protection of our most basic freedoms. It is critical that we reaffirm our knowledge of these events to preserve, in Madison's own words, "... that veneration which time bestows on everything, and without which perhaps the wisest and freest governments

would not possess the requisite stability."

Those words can be found in the *Federalist* No. 49, by James Madison.

In closing, let me refer back to something I said earlier when I said that it is not enough that democratic republics are founded on the consent of the people; they are absolutely dependent upon the active and informed involvement of the people.

In this regard, the American people will shortly be called upon to be involved. There is a national election coming. Elections will occur in every State. I think it is very appropriate, if I may, to state those words again.

It is not enough that democratic republics are founded on the consent of the people; they are also absolutely dependent upon the active and informed involvement of the people.

It is a disgrace, if we look at the record of the voter turnout in this country, the American people, it seems to me, are less and less involved when it comes to voting. Fewer and fewer of the people exercise this right—this duty. This is a foremost duty of American citizenship. Fewer people are involved.

I close with this reference to history.

In 1776, in September, George Washington asked for a volunteer to go be-

hind the British lines and draw pictures and develop information with respect to the placement of the British guns, their breastworks, their fortifications, and to bring that information back to the American lines. A young man by the name of Nathan Hale responded to the call. He was a schoolteacher. He went behind the British lines. This was an exceedingly dangerous assignment.

Nathan Hale achieved his purpose, but on the night before he was to return to the American lines, he was discovered by the British to be an American spy. The papers, the drawings, were upon his person. The next morning, September 22, 1776—224 years ago today—he stood before the hastily built gallows. He saw just before him the crude wooden coffin in which his body would soon be laid. He asked for a Bible. The request was denied. Whether or not the British at that point had a Bible near, we don't know. But there he stood with his hands tied behind him.

The British commander, whose name was Cunningham, asked Hale if he had anything to say. His last words, which are remembered by every schoolchild in America who has had the opportunity to read American history, were

these: I only regret that I have but one life to lose for my country.

The British commander said: "String the rebel up".

Nathan Hale gave his one life for his country.

My final question is this: If Nathan Hale was willing to give his only life—all he had—for his country, why is every American, Republican or Democrat or Independent, not willing to give his one vote for his country?

I yield the floor.

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#### RECESS UNTIL MONDAY, SEPTEMBER 25, 2000

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 12 noon, Monday, September 25, 2000.

Thereupon, the Senate, at 1 p.m., recessed until Monday, September 25, 2000, at 12 noon.

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#### NOMINATIONS

Executive nominations received by the Senate September 22, 2000:

##### DEPARTMENT OF JUSTICE

Mary Lou Leary, of Virginia, to be an Assistant Attorney General, vice Laurie O. Robinson, resigned.