

am speaking to popular legislators charged with presiding over the finest revolution which politics and the human mind have as yet experienced.

If I spoke to a despot, he would blame me; in the monarchy every house, every commune, every province was in a certain way a separate empire of manners, usages, laws, customs, and languages. The despot needed to isolate the people, to separate the countries, to divide interests, to hinder communication, to arrest simultaneity of thoughts, and the identity of movements. Despotism maintained the variety of dialects; a monarchy ought to resemble the tower of Babel; there is but one universal tongue for the tyrant, that of force in order to have obedience, and that of taxes to have money.

In a democracy, on the contrary, the supervision of the government is confided to each citizen; in order to supervise it it is necessary to know it; above all, it is necessary to know its language.

The laws of a republic suppose especial care from all the citizens, one over another, and a constant watchfulness concerning the observation of laws and the conduct of public functionaries. Can this be promised amid the confusion of tongues, the negligence of primary education among the people, the ignorance of the citizens?

Citizens, the language of a free people ought to be one and the same for all.

As soon as men think, as soon as they can combine their thoughts, the rule of priests, despots, and intriguers is doomed.

So let us give to the citizens the instrument of public thought, the surest agent of the revolution, the same language.

Special translation by Helen B. Dole.

JOHN MARSHALL



JOHN MARSHALL, a distinguished American jurist, chief-justice of the United States Supreme Court for thirty-four years (1801-35), was the son of a Virginia planter. He was born in Fauquier Co., Va., Sept. 24, 1755, and died at Philadelphia, July 6, 1835. After obtaining an excellent education at home and at private schools, he began the study of law at eighteen, but his studies were soon interrupted by his joining the Continental army, where he continued as an officer in active service till 1779. In that year he attended law lectures in William and Mary College, and was presently licensed to practice law, but he remained in the army some months longer. Resigning his commission in 1781, he entered upon his profession and a little later was elected to the Virginia legislature. He came out stoutly in favor of the Federal Constitution, and its ratification by his native State was mainly due to the efforts of Marshall and Madison. With Pinkney and Gerry he was sent in 1797 as envoy to France, to settle disputed matters between the two governments. Marshall and Pinkney, however, were not allowed to remain on account of their being Federalists, but really because they would not consent to bribe the Directory or countenance its demand for money, a demand which brought on the brief naval war with France. On his return to the United States, Marshall entered Congress as a strong Federalist member in 1797, and in 1801 was appointed Chief-Justice, an office which he held until his death. Marshall ranks among the foremost jurists, and did much as the champion of law against arbitrary power. His decisions are invariably logical, and are marked by fine judicial insight and breadth of view. In his constitutional decisions he accomplished a great deal toward establishing the dignity of the Federal Government. He was the author of an excellent "Life of Washington," issued in 1805, and revised in 1832.

SPEECH ON THE FEDERAL CONSTITUTION

DELIVERED JUNE 10, 1788

MR. CHAIRMAN,—I conceive that the object of the discussion now before us is whether democracy or despotism be most eligible. I am sure that those who framed the system submitted to our investigation, and those who now support it, intend the establishment and security of the former. The supporters of the constitution claim the title of being firm friends of the liberty and the rights of mankind. They say that they consider it as the best means of protecting liberty. We, sir, idolize democracy. Those

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who oppose it have bestowed eulogiums on monarchy. We prefer this system to any monarchy because we are convinced that it has a greater tendency to secure our liberty and promote our happiness. We admire it because we think it a well-regulated democracy: it is recommended to the good people of this country: they are, through us, to declare whether it be such a plan of government as will establish and secure their freedom.

Permit me to attend to what the honorable gentleman, Mr. Henry, has said. He has expatiated on the necessity of a due attention to certain maxims, to certain fundamental principles, from which a free people ought never to depart. I concur with him in the propriety of the observance of such maxims. They are necessary in any government, but more essential to a democracy than to any other.

What are the favorite maxims of democracy?

A strict observance of justice and public faith and a steady adherence to virtue. These, sir, are the principles of a good government. No mischief, no misfortune, ought to deter us from a strict observance of justice and public faith. Would to heaven that these principles had been observed under the present government! Had this been the case the friends of liberty would not be so willing now to part with it. Can we boast that our government is founded on these maxims? Can we pretend to the enjoyment of political freedom or security when we are told that a man has been, by an act of Assembly, struck out of existence without a trial by jury, without examination, without being confronted with his accusers and witnesses, without the benefits of the law of the land? Where is our safety when we are told that this act was justifiable because the person was not a Socrates? What has become of the worthy member's maxims? Is this one of them? Shall

it be a maxim that a man shall be deprived of his life without the benefit of law? Shall such a deprivation of life be justified by answering, that the man's life was not taken *secundum artem*, because he was a bad man? Shall it be a maxim that government ought not to be empowered to protect virtue?

The honorable member, after attempting to vindicate that tyrannical legislative act to which I have been alluding, proceeded to take a view of the dangers to which this country is exposed. He told us that the principal danger arose from a government which, if adopted, would give away the Mississippi.

I intended to proceed regularly, by attending to the clause under debate; but I must reply to some observations which were dwelt upon to make impressions on our minds unfavorable to the plan upon the table. Have we no navigation in, or do we derive no benefit from, the Mississippi? How shall we retain it? By retaining that weak government which has hitherto kept it from us? Is it thus that we shall secure that navigation? Give the government the power of retaining it and then we may hope to derive actual advantages from it. Till we do this we cannot expect that a government which hitherto has not been able to protect it will have the power to do it hereafter. Have we attended too long to consider whether this government would be able to protect us? Shall we wait for further proofs of its inefficacy? If on mature consideration the constitution will be found to be perfectly right on the subject of treaties, and containing no danger of losing that navigation, will he still object? Will he object because eight States are unwilling to part with it? This is no good ground of objection.

He then stated the necessity and probability of obtaining

amendments. This we ought to postpone until we come to that clause, and make up our minds whether there be anything unsafe in this system. He conceived it impossible to obtain amendments after adopting it. If he was right, does not his own argument prove that in his own conception previous amendments cannot be had? for, sir, if subsequent amendments cannot be obtained, shall we get amendments before we ratify? The reasons against the latter do not apply against the former.

There are in this State, and in every State in the Union, many who are decided enemies of the Union. Reflect on the probable conduct of such men. What will they do? They will bring amendments which are local in their nature and which they know will not be accepted. What security have we that other States will not do the same. We are told that many in the States were violently opposed to it. They are more mindful of local interests. They will never propose such amendments as they think would be obtained.

Disunion will be their object. This will be attained by the proposal of unreasonable amendments. This, sir, though a strong cause, is not the only one that will militate against previous amendments. Look at the comparative temper of this country now, and when the late Federal Convention met. We had no idea then of any particular system. The formation of the most perfect plan was our object and wish. It was imagined that the States would accede to, and be pleased with, the proposition that would be made them. Consider the violence of opinions, the prejudices and animosities which have been since imbibed.

Will not these operate greatly against mutual concessions or a friendly concurrence? This will, however, be taken up more properly another time. He says we wish to have a

strong, energetic, powerful government. We contend for a well-regulated democracy. He insinuates that the power of the government has been enlarged by the convention, and that we may apprehend it will be enlarged by others. The convention did not in fact assume any power.

They have proposed to our consideration a scheme of government which they thought advisable. We are not bound to adopt it. if we disapprove of it. Had not every individual in this community a right to tender that scheme which he thought most conducive to the welfare of his country? Have not several gentlemen already demonstrated that the convention did not exceed their powers? But the Congress have the power of making bad laws, it seems. The Senate, with the President, he informs us, may make a treaty which shall be disadvantageous to us; and that, if they be not good men, it will not be a good constitution. I shall ask the worthy member only if the people at large, and they alone, ought to make laws and treaties. Has any man this in contemplation?

You cannot exercise the powers of government personally yourselves. You must trust to agents. If so, will you dispute giving them the power of acting for you, from an existing possibility that they may abuse it? As long as it is impossible for you to transact your business in person, if you repose no confidence in delegates because there is a possibility of their abusing it, you can have no government. . . .

The honorable gentleman has asked if there be any safety or freedom when we give away the sword and the purse. Shall the people at large hold the sword and the purse without the interposition of their representatives? Can the whole aggregate community act personally? I apprehend that every gentleman will see the impossibility of this. Must

they, then, not trust them to others? To whom are they to trust them but to their representatives, who are accountable for their conduct?

He represents secrecy as unnecessary and produces the British government as a proof of its inutility. Is there no secrecy there? When deliberating on the propriety of declaring war, or on military arrangements, do they deliberate in the open fields?

No, sir. The British government affords secrecy when necessary, and so ought every government. In this plan, secrecy is only used when it would be fatal and pernicious to publish the schemes of government. We are threatened with the loss of our liberties by the possible abuse of power, notwithstanding the maxim that those who give may take away. It is the people that give power and can take it back. What shall restrain them? They are the masters who give it and of whom their servants hold it.

He then argues against the system because it does not resemble the British government in this — that the same power that declares war has not the means of carrying it on. Are the people of England more secure if the Commons have no voice in declaring war? or are we less secure by having the Senate joined with the President? It is an absurdity, says the worthy member, that the same man should obey two masters, that the same collector should gather taxes for the general government and the State legislature. Are they not both the servants of the people? Are not Congress and the State legislature the agents of the people, and are they not to consult the good of the people? May not this be effected by giving the same officer the collection of both taxes? He tells you that it is an absurdity to adopt before you amend. Is the object of your adoption to amend solely?

The objects of your adoption are union, safety against foreign enemies, and protection against faction — against what has been the destruction of all republics.

These impel you to its adoption. If you adopt it, what shall restrain you from amending it if in trying it amendments shall be found necessary? The government is not supported by force, but depending on our free will. When experience shall show us any inconvenience we can then correct it. But until we have experience on the subject, amendments as well as the constitution itself are to try.

Let us try it and keep our hands free to change it when necessary. If it be necessary to change government, let us change that government which has been found to be defective. The difficulty we find in amending the confederation will not be found in amending this constitution.

Any amendments in the system before you will not go to a radical change; a plain way is pointed out for the purpose. All will be interested to change it, and therefore all exert themselves in getting the change. There is such a diversity of sentiment in human minds that it is impossible we shall ever concur in one system till we try it. The power given to the general government over the time, place, and manner of election is also strongly objected to. When we come to that clause we can prove it is highly necessary and not dangerous.

The worthy member has concluded his observations by many eulogiums on the British constitution. It matters not to us whether it be a wise one or not. I think that, for America at least, the government on your table is very much superior to it. I ask you if your House of Representatives would be better than it is if a hundredth part of the people were to elect a majority of them. If your senators were for

life would they be more agreeable to you? If your President were not accountable to you for his conduct,— if it were a constitutional maxim that he could do no wrong,— would you be safer than you are now?

If you can answer, Yes, to these questions, then adopt the British constitution. If not, then, good as that government may be, this is better. The worthy gentleman who was last up said the confederacies of ancient and modern times were not similar to ours, and that consequently reasons which applied against them could not be urged against it. Do they not hold out one lesson very useful to us? However unlike in other respects they resemble it in its total inefficacy. They warn us to shun their calamities, and place in our government those necessary powers the want of which destroyed them. I hope we shall avail ourselves of their misfortunes without experiencing them. There was something peculiar in one observation he made. He said that those who governed the cantons of Switzerland were purchased by foreign powers, which was the cause of their uneasiness and trouble. How does this apply to us? If we adopt such a government as theirs will it not be subject to the same inconvenience? Will not the same cause produce the same effect? What shall protect us from it? What is our security?

He then proceeded to say, the causes of war are removed from us; that we are separated by the sea from the powers of Europe, and need not be alarmed. Sir, the sea makes them neighbors to us. Though an immense ocean divides us, we may speedily see them with us. What dangers may we not apprehend to our commerce! Does not our naval weakness invite an attack on our commerce? May not the Algerines seize our vessels? Cannot they and every other predatory or maritime nation pillage our ships and destroy our

commerce without subjecting themselves to any inconvenience?

He would, he said, give the general government all necessary powers. If anything be necessary it must be so to call forth the strength of the Union when we may be attacked or when the general purposes of America require it. The worthy gentleman then proceeded to show that our present exigencies are greater than they will ever be again.

Who can penetrate into futurity? How can any man pretend to say that our future exigencies will be less than our present? The exigencies of nations have been generally commensurate to their resources. It would be the utmost impolicy to trust to a mere possibility of not being attacked or obliged to exert the strength of the community. He then spoke of a selection of particular objects by Congress, which he says must necessarily be oppressive; that Congress, for instance, might select taxes, and that all but landholders would escape. Cannot Congress regulate the taxes so as to be equal on all parts of the community? Where is the absurdity of having thirteen revenues? Will they clash with or injure each other? If not, why cannot Congress make thirteen distinct laws and impose the taxes on the general objects of taxation in each State so as that all persons of the society shall pay equally, as they ought?

He then told you that your continental government will call forth the virtue and talents of America. This being the case will they encroach on the power of the State governments? Will our most virtuous and able citizens wantonly attempt to destroy the liberty of the people? Will the most virtuous act the most wickedly? I differ in opinion from the worthy gentleman. I think the virtue and talents of the members of the general government will tend to the security

instead of the destruction of our liberty. I think that the power of direct taxation is essential to the existence of the general government and that it is safe to grant it. If this power be not necessary, and as safe from abuse as any delegated power can possibly be, then I say that the plan before you is unnecessary; for it imports not what system we have, unless it have the power of protecting us in time of peace and war.

HENRY LEE



HENRY LEE, a distinguished officer in the American Revolution, commander of "Lee's Legion," and commonly known as "Light Horse Harry," was born in Westmoreland Co., Va., Jan. 29, 1756, and died at Cumberland Island, Ga., March 25, 1818. After graduating at Princeton College he entered the Continental army. At the battle of Germantown, Lee's cavalry troop was selected by General Washington as his body-guard. In January, 1778, when occupying a small stone house with a body of ten men, the remainder of his command being absent on a foraging expedition, the building was surrounded by 200 British cavalry, who attempted to take him prisoner, but were met with so spirited a resistance that they were compelled to retreat. Soon after this he was advanced to the rank of major, with the command of three companies of cavalry. While holding this rank he planned and executed the famous attack on the British post at Paulus Hook, opposite the city of New York, their headquarters. He surprised and took the garrison under the eye of the British army and navy, and safely conducted his prisoners into the American lines, many miles distant from the captured post. Than this there are few enterprises to be found on military record equal in hazard or difficulty, or conducted with more boldness, skill, and daring activity. It was, moreover, accomplished without loss, filled the camp of the enemy with shame and astonishment, and shed an unfading lustre on American arms. In 1780, Lee was promoted to the rank of lieutenant-colonel commandant of a separate legionary corps, and was sent to the Southern Department of the United States, to join the army under General Greene, where he remained until the close of the war. He entered Congress in 1787, and was governor of Virginia 1792-95. He sat again in Congress at the time of Washington's death, in 1799, and, being appointed by Congress to deliver an oration upon the character of Washington, uttered in the course of his speech the since-famous eulogy, "First in war, first in peace, and first in the hearts of his countrymen." In 1814, he was the guest, in Baltimore, of a Federalist editor whose house was attacked by a mob during his visit. On this occasion Lee was so seriously injured in his efforts to defend his friend's house that he never entirely recovered. In 1809, he wrote "Memoirs of the War in the Southern Department of the United States," a third edition of which was issued with a biography written by his son, General Robert E. Lee, commanding general of the armies of the Confederacy.

EULOGY ON WASHINGTON

[This oration was prepared and delivered at the request of the Congress of the United States, by General Lee, at Philadelphia, on December 26, 1799.]

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