

■ Speech Delivered at the Virginia Convention Debate on the Ratification of the Constitution

Date: June 7, 1788

Author: Henry, Patrick

Genre: speech

*"I shall retain my infidelity on that subject till
I see our liberties secured in a manner perfectly
satisfactory to my understanding."*

Summary Overview

In 1788, Virginian patriot Patrick Henry was a strong anti-Federalist who opposed the ratification of the new, controversial US Constitution on the grounds that it granted too much power to the federal government without sufficient protections for the states or their citizens. Elected to the state-level ratification convention that met in June of that year, Henry was a highly vocal opponent of ratification, believing that approving the Constitution would return those who fought for liberty from the perceived abuses of the British Crown a decade before to rule by an overly powerful centralized government. Henry spoke out against a number of failings he saw in the proposed Constitution, including the lack of a bill of rights and the concentration of a great deal of power over the states in the hands of the national legislature. For Henry, opposing the Constitution was his duty as a true American patriot.

Defining Moment

At its inception, the young American nation was governed not by the US Constitution, but by the short-lived Articles of Confederation, written shortly after the nation declared its independence and formally agreed upon in 1781. The problems of the Confederation quickly showed themselves, however. The national government lacked the true power and the funds to operate nationally. The challenges of getting all thirteen

states to agree on national issues were great. Soon, the nation's political leaders decided to hold a convention for the purpose of revising the articles. When they met in Philadelphia during the spring and summer of 1787, however, the group decided to throw out the articles altogether and create a new plan for the American government—the US Constitution.

Yet the success of the new Constitution was far from certain. Of the original thirteen states, a solid majority of nine needed to vote for ratification in order for the plan to take effect. Delaware became the first state to ratify in the Constitution in December 1787, and before long other states followed suit. Some, such as Massachusetts, did so only after great debate and called for the immediate inclusion of a series of amendments to limit the new government and protect individual liberties. Other states were even less open to the idea of ratification. In the spring of 1788, Rhode Island rejected a measure to hold a ratifying convention and simply denied ratification through a popular referendum. When Virginia—a large, wealthy state with a population of some 750,000—held its own ratification convention during the early summer of that year, the delegates had mixed feelings about the Constitution. Some, like James Madison, had been instrumental in writing the plan and supported it fervently. Others, including Patrick Henry, were anti-Federalists who believed the document stripped the states of vital powers in favor an overly strong central government.

The timing of Virginia's ratification convention made its decision a particularly important one. Eight of the requisite nine states had already signed on in support of the Constitution. Virginian ratification could thus be the deciding factor in the full acceptance of the new government. As a result, the debate over ratification was a particularly heated one fraught with the possibility of significant consequences for the nation. For anti-Federalists such as Henry, the prospect of a new, potentially abusive central government was one worthy of a strong fight. Although New Hampshire became the ninth state to ratify the Constitution later that June, at the time of Henry's speech before the Virginia Convention the fate of the Constitution seemed to lie in the balance.

Author Biography

A native Virginian, Patrick Henry (1738–99) spent most of his adult career as a lawyer and influential statesman. As early as 1763, he used the doctrine of natural rights—one of the political ideas underlying the later American Revolution—as the basis for a legal argument against an action of the British Crown. Henry first won election to the Virginia House of Burgesses in 1765, where he soon made a name for himself speaking out for colonial self-government amidst the crisis surrounding the passage of the hated Stamp Act. He became a leading opponent of the British government, famously uttering “Give me liberty or me death!” in the period leading up to armed conflict. Al-

though Henry only briefly commanded militia in the Revolution, he remained a respected figure, serving as governor of Virginia three times during the conflict and twice thereafter. He refused to attend the Constitutional Convention in Philadelphia but was later elected as a delegate to the state-level ratification convention.

Henry was among the most vocal anti-Federalists at the Virginia Convention. While some other opponents, including sitting Virginia governor Edmund Randolph, reversed their stand on the Constitution to show support for the fledgling union of states, Henry—along with George Mason—refused to back down from his principles. Believing the Constitution to have created a government likely to overstep its proper role, particularly with respect to individual rights, taxation, military power, and national legislation, Henry argued stridently against Virginia's ratification.

Although the anti-Federalists ultimately lost the battle at the convention, Henry continued to wage a war against the new Constitution for a time. He worked to prevent leading Constitution writer James Madison from winning a seat in Congress and called for a new statewide convention to reject or at least heavily amend the Constitution. Such an event never came to pass, and Henry spent much of the 1790s in private life, rejecting several offers of high-ranking federal office and declining to run for the state legislature. In the late 1790s, he began a return to politics that was cut short by his death in June 1799.

HISTORICAL DOCUMENT

I have thought, and still think, that a full investigation of the actual situation of America ought to precede any decision of this great and important question. 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.

There are certain maxims by which every wise and enlightened people will regulate their conduct. There are certain political maxims which no free people ought ever to abandon —maxims of which the observance is essential to the security of happiness. It is impiously irritating the avenging hand of Heaven, when a people, who are in the full enjoyment of freedom, launch out into the wide

ocean of human affairs, and desert those maxims which alone can preserve liberty. Such maxims, humble as they are, are those only which can render a nation safe or formidable. Poor little humble republican maxims have attracted the admiration, and engaged the attention, of the virtuous and wise in all nations, and have stood the shock of ages. We do not now admit the validity of maxims which we once delighted in. We have since adopted maxims of a different, but more refined nature—new maxims, which tend to the prostration of republicanism.

We have one, sir, *that all men are by nature free and independent, and have certain inherent rights, of which, when they enter into society, they cannot by any compact deprive or divest their posterity*. We have a set of maxims of the same spirit, which must be beloved by every friend to liberty, to virtue, to mankind: our bill of rights contains those admirable maxims.

Now, sir, I say, let us consider whether the picture given of American affairs ought to drive us from those beloved maxims.

The honorable gentleman, Governor Randolph, has said that it is too late in the day for us to reject this new plan. That system which was once execrated by the honorable member must now be adopted, let its defects be ever so glaring. That honorable member will not accuse me of want of candor, when I cast in my mind what he has given the public, and compare it to what has happened since. It seems to me very strange and unaccountable that that which was the object of his execration should now receive his encomiums. Something extraordinary must have operated so great a change in his opinion. It is too late in the day! Gentlemen must excuse me if they should declare, again and again, that it was too late, and I should think differently. I never can believe, sir, that it is too late to save all that is precious: if it be proper, and, independently of every external consideration, wisely constructed, let us receive it: but, sir, shall its adoption by eight states induce us to receive it, if it be replete with the most dangerous defects? They urge that subsequent amendments are safer than previous amendments, and that they will answer the same ends.

At present we have our liberties and privileges in our own hands. Let us not relinquish them. Let us not adopt this system till we see them secure. There is some small possibility that, should we follow the conduct of

Massachusetts, amendments might be obtained. There is a small possibility of amending any government; but, sir, shall we abandon our most inestimable rights, and rest their security on a mere possibility? The gentleman fears the loss of the Union. If eight states have ratified it unamended, and we should rashly imitate their precipitate example, do we not thereby disunite from several other states? Shall those who have risked their lives for the sake of the Union be at once thrown out of it? If it be amended, every state will accede to it; but by an imprudent adoption in its defective and dangerous state, a schism must inevitably be the consequence. I can never, therefore, consent to hazard our most unalienable rights on an absolute uncertainty.

You are told there is no peace, although you fondly flatter yourselves that all is peace; no peace; a general cry and alarm in the country; commerce, riches, and wealth, vanished; citizens going to seek comforts in other parts of the world; laws insulted; many instances of tyrannical legislation. These things, sir, are new to me. He has made the discovery. As to the administration of justice, I believe that failures in commerce, &c., cannot be attributed to it. My age enables me to recollect its progress under the old government. I can justify it by saying that it continues in the same manner in this state as it did under the former government. As to other parts of the continent, I refer that to other gentlemen. As to the ability of those who administer it, I believe they would not suffer by a comparison with those who administered it under the royal authority. Where is the cause of complaint if the wealthy go away? Is this, added to the other circumstances, of such enormity, and does it bring such danger over this commonwealth, as to warrant so important and so awful a change, in so precipitate a manner? As to insults offered to the laws, I know of none. In this respect, I believe this commonwealth would not suffer by a comparison with the former government. The laws are as well executed, and as patiently acquiesced in, as they were under the royal administration. Compare the situation of the country—compare that of our citizens to what it was then—and decide whether persons and property are not as safe and secure as they were at that time. Is there a man in this commonwealth whose person can be insulted with impunity? Cannot redress be had here for personal insults or injuries, as well as in any part of the

world—as well as in those countries where aristocrats and monarchs triumph and reign? Is not the protection of property in full operation here? The contrary cannot with truth be charged on this commonwealth. Those severe charges, which are exhibited against it, appear to be totally groundless. On a fair investigation, we shall be found to be surrounded by no real dangers. . . .

I had doubts of the power of those who went to the Convention, but now we are possessed of it, let us examine it. When we trusted the great object of revising the Confederation to the greatest, and best, and most enlightened, of our citizens, we thought their deliberations would have been solely confined to that revision. Instead of this, a new system, totally different in its nature, and vesting the most extensive powers in Congress, is presented. Will the ten men you are to send to Congress be more worthy than those seven were? If power grew so rapidly in their hands, what may it not do in the hands of others? If those who go from this state will find power accompanied with temptation, our situation must be truly critical. When about forming a government, if we mistake the principles, or commit any other error, the very circumstance promises that power will be abused. The greatest caution and circumspection are therefore necessary; nor does this proposed system, on its investigation here, deserve the least charity.

The honorable gentleman says that the national government is without energy. I perfectly agree with him; and when he cries out, *Union*, I agree with him; but I tell him not to mistake the end for the means. The end is union; the most capital means, I suppose, are an army and navy. On a supposition, I will acknowledge this; still the bare act of agreeing to that paper, though it may have an amazing influence, will not pay our millions. There must be things to pay debts. What these things are, or how they are to be produced, must be determined by our political wisdom and economy.

The honorable gentleman alleges that previous amendments will prevent the junction of our riches from producing great profits and emoluments, which would enable us to pay our public debts, by excluding us from the Union. I believe, sir, that a previous ratification of a system notoriously and confessedly defective will endanger our riches, our liberty, our all. Its defects are acknowledged; they cannot be denied. The reason offered by the

honorable gentleman for adopting this defective system, is its adoption by the eight states. I say, sir, that, if we present nothing but what is reasonable in the shape of amendments, they will receive us. Union is as necessary for them as for us. Will they, then, be so unreasonable as not to join us? If such be their disposition, I am happy to know it in time.

The honorable member then observed, that nations will expend millions for commercial advantages; that is, that they will deprive you of every advantage if they can. Apply this another way. Their cheaper way, instead of laying out millions in making war upon you, will be to corrupt your senators. I know that, if they be not above all price, they may make a sacrifice of our commercial interests. They may advise your President to make a treaty that will not only sacrifice all your commercial interests, but throw prostrate your bill of rights. Does he fear that their ships will outnumber ours on the ocean, or that nations whose interest comes in contact with ours, in the progress of their guilt, will perpetrate the vilest expedients to exclude us from a participation in commercial advantages? Does he advise us, in order to avoid this evil, to adopt a Constitution, which will enable such nations to obtain their ends by the more easy mode of contaminating the principles of our senators? Sir, if our senators will not be corrupted, it will be because they will be good men, and not because the Constitution provides against corruption; for there is no real check secured in it, and the most abandoned and profligate acts may with impunity be committed by them. . . .

If we are to have one representative for every thirty thousand souls, it must be by implication. The Constitution does not positively secure it. Even say it is a natural implication, —why not give us a right to that proportion in express terms, in language that could not admit of evasions or subterfuges? If they can use implication for us, they can also use implication against us. We are giving power; they are getting power; judge, then, on which side the implication will be used! When we once put it in their option to assume constructive power, danger will follow. Trial by jury, and liberty of the press, are also on this foundation of implication. If they encroach on these rights, and you give your implication for a plea, you are cast; for they will be justified by the last part of it, which gives them full power “to make all

laws which shall be necessary and proper to carry their power into execution.” Implication is dangerous, because it is unbounded: if it be admitted at all, and no limits be prescribed, it admits of the utmost extension. They say that every thing that is not given is retained. The reverse of the proposition is true by implication. They do not carry their implication so far when they speak of the general welfare —no implication when the sweeping clause comes. Implication is only necessary when the existence of privileges is in dispute. The existence of powers is sufficiently established. If we trust our dearest rights to implication, we shall be in a very unhappy situation.

Implication, in England, has been a source of dissension. There has been a war of implication between

the king and people. For a hundred years did the mother country struggle under the uncertainty of implication. The people insisted that their rights were implied; the monarch denied the doctrine. The Bill of Rights, in some degree, terminated the dispute. By a bold implication, they said they had a right to bind us in all cases whatsoever. This constructive power we opposed, and successfully. Thirteen or fourteen years ago, the most important thing that could be thought of was to exclude the possibility of construction and implication. These, sir, were then deemed perilous. The first thing that was thought of was a bill of rights. We were not satisfied with your constructive, argumentative rights.

GLOSSARY

emoluments: benefits; advantages

encomiums: high praises

execration: curse; words of hatred

hazard: risk

inestimable: too great or important to be estimated or gauged

maxim: rule; principle

precipitate: rash; hasty

redress: compensation for a loss

Document Analysis

Early US leaders widely believed that Patrick Henry, elected as a delegate to the Virginia ratification convention by Prince Edward County, arrived at the event in Richmond determined to ensure that the recently written US Constitution did not move forward. Like other anti-Federalists, Henry believed that the document as written created a government too centralized and too powerful; unlike those anti-Federalists who wished to amend the Constitution to correct its shortcomings, however, Henry did not want the document to take effect in any form. Rumors had even circulated that Henry was willing to propose that Virginia separate from the rest of the states to form its own sovereign na-

tion. Further, he believed that most Virginians shared his opposition to the proposed plan of US government. Unwilling to accept the Constitution and dismissive of the concept of an organized government in general as “a choice among evils,” Henry turned his considerable oratorical prowess to dissuading the Convention from ratifying the document.

He begins this speech by announcing his belief that ratification of the Constitution must rest upon “a full investigation of the actual situation of America” to determine whether the proposed government—the mere existence of which gave Henry pause—was in fact the best means by which to oversee the running of the nascent United States. Although Henry states that if the

Constitution were found to be but a “trifling evil” he would happily accept its adoption, his opinion that the document instead seemed sure to “entail misery” for the nation’s citizens is clear. He proclaims that he needs to be convinced that the latter case is not the most likely in order to grant his own support to the Constitution because of his firm adherence to the protection of the liberties for which—as Henry, barely five years removed from the Treaty of Paris ending the American Revolution, well remembered—the United States had fought a bitter war with Great Britain to attain for its people.

Henry then introduces the argument that certain maxims, or principles, organized the behaviors of all “wise and enlightened people.” Chief among them were those political principles that supported the spread of liberty among a citizenry, particularly those supporting the institution of a republican government like that toward which the young United States was striving. Henry nods to the influence of republican ideals abroad—by this time, the revolution was fomenting in France—and pronounced the enduring value of those ideals across time. He caps this introduction with the proclamation affirming the inherent freedom of all people that they are obligated to protect.

In doing so, Henry recalls both the concept of natural rights that had so deeply influenced the patriots in their decision to seek independence and that of the social contract, or the belief that people willingly enter into an agreement with political leaders to form a government and thus have the right to sever those ties should a government become repressive. Popularized by English philosopher John Locke during the seventeenth century, natural rights were considered all those granted to human beings simply by the virtue of their existence; according to Locke, natural rights include the rights to life, liberty, and property, all concepts closely echoed in the 1776 Declaration of Independence that had formally announced the American Revolution. Henry had long been a strong supporter of the spread of natural rights in the face of government authority. The pursuit of these rights had encouraged him to become one of the strongest opponents of the British colonial regime. Now, he saw, these same rights were being threatened by the creation of a new, strong central US government.

With this core guiding principle established, Henry next sets about rebutting the arguments put forth earlier in the week by Virginia governor Edmund Randolph. Randolph had been one of Henry’s strongest allies in opposing the new Constitution but had shocked Henry

by declaring his support for the document after arriving at the ratification convention. According to Randolph, the failings of the Constitution were outweighed by the need for the nation to remain together as a union, and thus the plan must be adopted. Henry sharply reprimands the governor for his change of heart, noting that it is “very strange and unaccountable” to him that Randolph should decide to support a plan that he had previously criticized simply because it was too late in the process to try to develop a better system. Henry condemns this argument, stating that he does not believe that Virginia should accept a plan he found faulty just because eight other states have already done so. He then notes other states’ calls for a series of amendments—the typical moderate anti-Federalist solution to the perceived failings of the Constitution—but suggests that he does not believe that those who promised to add the amendments would necessarily do so. Thus, he continues to build his argument that ratification of the present plan was a mistake.

Henry further opposes ratification because of the risk of losing rights that Americans already had under the weak system established by the Articles of Confederation. He calls for the convention to reject the Constitution in order to keep those “liberties and privileges” intact, stating baldly that the acquisition of a bill of rights is a “mere possibility” and “absolute uncertainty” not worthy of risking the freedoms that the states have won. Henry again challenges Randolph’s claim that approving the Constitution would ensure the continued union of the states by pointing out that although eight states have ratified the document, five states have not. Along with Rhode Island’s flat denial of the Constitution, New York, North Carolina, and New Hampshire had yet to approve the document. Ratification, Henry argues, would thus divide Virginia from this group of states, potentially isolating those with very reasonable objections from the country that they had helped build through the American Revolution. The current system, he suggests, is thus preferable to the potentially divisive and unstable new one.

In fact, Henry argues, the existing Confederation government is working perfectly well. He refutes the idea that the nation’s problems have grown so great that a stronger national government as outlined by the Constitution is necessary, arguing that the unrest, economic troubles, and various other perceived problems of the nation have been greatly overblown. In Virginia, Henry indicates, he has seen no evidence

of these troubles. Certainly, Henry believed that the Confederation government represented a vast improvement over the colonial government that Virginia and its fellow states had been under within his own recent memory. Contemporary American leaders performed their work with at least the same competence as the old royal administrators, and Henry saw the possible desertion of the wealthy to more attractive shores to be an insufficient reason to completely renovate American government. Henry himself was not a particularly rich man—financial pressures resulting from raising a large family had been one of the reasons he chose to return to private life after his governorship—and thus would have perceived no real benefit in setting up a government to protect the monied class. He equally believed that the existing government adequately enforced national laws. No American, Henry argues, exists in a state of lawlessness. Laws protected citizens from personal and property damage to at least as great a degree as had those of the colonial period and in other nations of the world. Virginians, he argues, enjoy full protection of the law, and thus replacing the Confederation government on those grounds is useless.

Henry's refusal to acknowledge the Confederation's shortcomings set him at odds with the vast majority of other leaders of his era, as well as with the opinion of history. With a weak executive and a congress reliant on the agreement of states with very different interests, the central government lacked the authority needed to oversee the administration of a growing nation. Shays's Rebellion, an uprising in western Massachusetts in 1786–87, had clearly indicated the inability of a fiscally constrained national government to maintain order through a military force, for example.

Henry's frustration about the very existence of the Constitution is clear in the next section. In late 1786, Randolph—having replaced Henry as governor—had written to Henry inviting him to serve as a delegate to what became the Constitutional Convention. By that time, however, events had turned Henry against the idea of a strong national government. As the secretary of foreign affairs under the articles, New Yorker John Jay had proposed negotiations to relinquish American rights to the Mississippi River to Spain for two to three decades in exchange for trade benefits. Executing this treaty would have helped northern commercial interests but damaged southern agricultural trade. An enraged Henry worked to defeat the ultimately fruitless plan, but the circumstances soured him on increasing the power to

the national government. As a result, he declined to attend the meetings in Philadelphia, reputedly suspecting that the revisions would grant increased power to the national government.

Because he sat out the proceedings, Henry was in a solid position to condemn their outcome. He argues here that Virginia's delegates to the Convention have done the state a disservice by creating the Constitution rather than revising the existing articles, and further, that this event itself is proof of the power-grabbing likely to take place under the proposed government. After all, Henry demands, would Virginia's congressional representatives protect its interests any better than those delegates had done in Philadelphia? His own answer is a firm no.

Henry continues this theme by refuting more of Randolph's points, stating that he agreed with the governor's underlying goal promoting national unity. Yet, Henry argues, the end goal of union does not justify the means of creating a powerful centralized government. One of the overriding problems the Confederation government faced was the inability to enforce taxation on the states, leaving the nation with debts to both its own military veterans and to other countries. Henry argues that the mere existence of these debts does not warrant the granting of such expanded powers to the national government, but rather that the nation's existing "political wisdom and economy" could offer alternative solutions. Further, Henry disagrees with Randolph over the fiscal benefits that Virginia could receive from joining the United States under the Constitution; he proclaims that doing so would in fact "endanger our riches, our liberty, our all." Instead, Henry was confident that requiring a series of amendments clearly designed to rectify the flaws on the Constitution would not risk Virginia's place in a unified national government because those eight states that had already approved the Constitution needed Virginia to be tied into the nation as much as Virginia itself would benefit from joining with them.

Henry's next jab at Randolph's suppositions recalls the debacle of Jay's Mississippi treaty. An easier route to laying claim to American resources than war, he argues, is simply to "corrupt your senators" through bribery. Unspoken but certainly implied is the suggestion that other representatives would be willing, as Jay had been, to risk Virginia's interests in order to secure an advantage for themselves or their own states. Henry subtly reminds his listeners of the Mississippi crisis by using a treaty as an example of how this corruption could wend its way through the national government. He rhetorically ques-

tions whether Randolph feared that all other nations of the world would undertake all efforts to prevent Americans from economic advances, reinforcing the idea that the flawed Constitution was not the correct solution to this seemingly unlikely problem. Government corruption cannot be prevented by a document, Henry argues, and certainly not by one as unlimited as the proposed Constitution.

Henry next rails against the unspecified rights and limitations of the Constitution, complaining that the use of “implication” requires citizens to be too trusting a government that, by refusing to directly lay out those citizens’ freedoms and its own restrictions, has already shown itself untrustworthy. Suspicious of the use of implication as a power grab by the new government, Henry notes that the national government “can also use implication against us. We are giving power; they are getting power; judge, then, on which side the implication will be used!” While this statement may be seen as somewhat cynical, Henry—and his audience—had personally experienced the heavy hand of an imperial government. The speaker and at least some of the members of the Convention were understandably wary of the prospect of handing poorly limited power to the new government. With the Bill of Rights not yet part of the document, no provision existed in the Constitution for even basic legal rights that Americans had enjoyed under British rule such as trial by jury. Henry reflects the leading anti-Federalist objection to the Constitution—the absence of a bill of rights—but carries it to the next step, suggesting that the government is setting itself up to claim greater powers than the Constitution seemed to allow through the usage of implication. By making this argument, Henry actually presaged one of the leading interpretative debates of the Constitution during the late eighteenth and early nineteenth centuries. The question of the constitutionality of implied powers arose as early as the Washington administration when Alexander Hamilton proposed the formation of a national bank.

Henry then condemns the use of implied powers and rights by reminding his audience of the turmoil in England during the period surrounding English Civil War. This conflict, which took place during the mid-seventeenth century, came after a time when the monarch refused to summon Parliament and persecuted members of religious fringe groups; among these groups were the Separatists who became New England’s Pilgrim founders. The English Bill of Rights was inaugurated in 1689

and, like the bill of rights that Henry and other anti-Federalists wished to add to the US Constitution, laid out certain liberties for British subjects that the government could not contravene. Henry again reminds his listeners of the struggle over power that had incited the American Revolution, reinforcing his argument that creating a strong new American government violated the principles for which the nation had fought short years before. The “possibility of construction and implication,” Henry suggests, was one of the very ideas that the Revolution had aimed to end in the English colonies. Without a formalized bill of rights in the new Constitution, he argues, citizens risked leaving these hard-won rights to the same demons of implication and argument.

Henry concludes with call for a bill of rights along with firm limitations on the growth of national governmental power and the rejection of the usage of implied powers. Henry then adjourns his remarks for continuation when the Convention resumed work. Although Henry continued to argue against ratification for the duration of the convention, his oratorical efforts ultimately failed to secure him his goal: The Virginia Convention, buoyed by promises by Madison to add a bill of rights to the Constitution during the first possible session of the US Congress, voted eighty-nine to seventy-nine in favor of ratification.

Essential Themes

Although Henry’s arguments failed to win the day in the face of Madison’s pledge to secure a formal bill of rights—a promise that was indeed fulfilled in 1789 and completely ratified in 1791, a relatively small lapse—the anti-Federalist leader and others of his persuasion set forth arguments that shaped the practice of US government throughout the centuries. Without calls such as Henry’s for a firmly delineated bill of rights, it seems unlikely that Federalist leaders would have considered the addition of these amendments necessary. The Bill of Rights establishes many liberties that US citizens consider fundamental to their national identity and political system. Perceived government infringement upon these basic freedoms generated public outcry as early as the Alien and Sedition Acts of 1798; they also informed more contemporary landmark Supreme Court decisions, such as *Miranda v. Arizona* (1966) and *New York Times v. United States* (1971). In contrast, those rights that are only implied in the Constitution have generated highly contentious government decisions. The Supreme Court decision legalizing abortion in *Roe v. Wade*

(1971), for example, was based on the constitutionally implied right to privacy. Yet the undefined nature of that right allows the issue to be heavily debated decades after that case left the bench.

Henry's call for protections for states' rights also continues to resonate across time. Henry declaimed against the ability of a narrow majority of states' representatives in Congress to legislate for the entire nation as outlined in the Constitution. This principle led to massive political turmoil during the first half of the nineteenth century as Southern slaveholding states sought to maintain sufficient representation in the national legislature to prevent Northern free states from abolishing slavery. These political tensions informed the order in which states were admitted to the growing United States—even whether a state was permitted to enter at all—and contributed to the rise of political compromises that ultimately failed to keep the Union together. Although Henry was personally opposed to slavery, his arguments for states' rights over those of the central government certainly informed the ideas of Southern secessionists in later decades. This conflict remains a driving factor in US political debate.

Henry's distrust of a large, powerful central government has been another ongoing source of political division. In the early nineteenth century, for example, the perceived legality of the federal government to fund interstate transportation projects led to intermittent funding for the National Road. As president, Andrew Jackson famously rejected the power of the federal government to operate a national bank. These same tensions continue to drive political dispute between those who see the government's involvement in social welfare or economic programs as an excess of power and those who see such efforts as natural and necessary for the nation's well-being.

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Bibliography

- Kidd, Thomas S. *Patrick Henry: First among Patriots*. New York: Basic, 2011. Print.
- Maier, Pauline. *Ratification: The People Debate the Constitution, 1787–1788*. New York: Simon, 2010. Print.
- McClanahan, Brion. *The Founding Fathers' Guide to the Constitution*. Washington: Regnery, 2012. Print.
- Meade, Robert Douthat. "Patrick Henry." *Encyclopedia Britannica*. Encyclopedia Britannica, 2012. Web. 22 June 2012.
- Tate, Thad. "Patrick Henry." *American National Biography* (2010): 1. *Biography Reference Center*. Web. 22 June 2012.
- "Timeline of the Ratification of the Constitution." *TeachingAmericanHistory.org*. Ashbrook Center at Ashland University, 2012. Web. 22 June 2012.
- Unger, Harlow Giles. *Lion of Liberty: Patrick Henry and the Call to a New Nation*. Cambridge: Da Capo, 2010. Print.

Additional Reading

- "The Debates in the Convention of the Commonwealth of Virginia on the Adoption of the Federal Constitution." *TeachingAmericanHistory.org*. Ashbrook Center at Ashland University, 2012. Web. 7 June 2012.
- Hayes, Kevin J. *The Mind of a Patriot: Patrick Henry and the World of Ideas*. Charlottesville: U of Virginia P, 2008.
- Kaminski, John P., et al., eds. *The Documentary History of the Ratification of the Constitution*. Vol. 8–10. Madison: Wisconsin Historical Soc., 1988–93. Print.
- McDowell, Gary L. *The Language of Law and the Foundations of American Constitutionalism*. Cambridge: Cambridge UP, 2010. Print.
- Wirt, William. *The Life of Patrick Henry*. 6th ed. New York: Bangs, 1834. Print.

LESSON PLAN: Securing American Liberty

Students analyze a speech by Patrick Henry to consider arguments against ratifying the US Constitution.

Learning Objectives

Hypothesize the influence of arguments against ratification of the Constitution; analyze multiple causes that led Henry to oppose ratification; identify relevant historical antecedents to the adoption of the Bill of Rights.

Materials: Patrick Henry, “Speech Delivered at the Virginia Convention Debate of the Ratification of the Constitution” (1788).

Overview Questions

Why does Henry oppose ratifying the Constitution? Why does he think it fails to secure citizens’ liberties? What additional issues would Henry like to see addressed before adopting a constitution? In what ways does Henry’s argument speak to the eventual need for a Bill of Rights?

Step 1: Comprehension Questions

According to Henry, what new maxim have the people of America adopted? Why does he think the Constitution fails to uphold this maxim?

- **Activity:** Have students read aloud paragraph three and summarize it in their own words. Group students to make predictions about what kind of government Henry thinks will best uphold these principles.

Step 2: Comprehension Questions

What does Henry mean by “implications” in the Constitution? What issues are not explicitly stated in the document that he would like to see directly addressed?

- **Activity:** Have students review the final three paragraphs of the speech and list the issues that Henry worries are implied in the Constitution but not explicitly stated. Discuss the benefits and drawbacks of a government based on these “implications,” calling on students to cite passages to support their claims.

Step 3: Context Questions

What political and economic turmoil does Henry foresee? Why does he think the Constitution will fail to address these problems? How would he like to see these issues dealt with instead?

- **Activity:** Pair students to list the political and economic concerns Henry raises, including his

fears about the country’s debt. Have students use their lists to discuss how the adoption of the Constitution stands to impact the nation’s commercial future.

Step 4: Historical Connections Questions

In what ways does Henry think the Constitution encroaches on natural liberties? How might Constitutional amendments secure these liberties in the future? In what ways does this speech lay the foundation for the eventual adoption of the Bill of Rights?

- **Activity:** Have students locate passages in which Henry details the importance of natural liberties. Based on these passages, have students write a short speech from Henry’s perspective calling for the adoption of the Bill of Rights. Call on students to share their speeches with the class.

Step 5: Response Paper

Word length and additional requirements set by Instructor. Students answer the research question in the Overview Questions. Students state a thesis and use as evidence passages from the primary source document as well as support from secondary historical document/s assigned in the lesson.