

Address to the Members of the New York and Virginia Conventions, Post-30 April 1788

This address was drafted after the Maryland Convention ratified the Constitution and after efforts to present recommendatory amendments failed on 26 and 29 April, respectively. The draft refers to “the late conduct” of the Federalists in the state Convention which was designed to create the impression that there was little or no support in Maryland for amendments. Directed at the members of the New York and Virginia conventions which were scheduled to meet in June, the address attempted to demonstrate that there was considerable support in Maryland for amendments safeguarding “THE NATURAL & UNALIENABLE RIGHTS OF MEN.” The manuscript of this address, which is in two parts, is located in the Etting Collection (Old Congress) at the Historical Society of Pennsylvania. The address has not been located in any newspaper.

The authorship of the address is not clear. At a later date someone wrote “James Mercer?” on the manuscript of the first part of the essay. The second part bears two later-day attributions: “John Fenton Mercer” and “Mercer, Jno Francis”; the former appears at the top of the first page, the latter at the bottom of the last page. John Francis Mercer (1759–1821), who is the most likely choice to be the author, was a native of Virginia who had represented that state in the Confederation Congress in 1783 and 1784 before moving to Maryland in 1785. He attended the Constitutional Convention but left before it adjourned *sine die*. He opposed the Constitution; and in the Maryland Convention, he voted against ratification and was a member of the committee of thirteen to consider amendments. His half brother, James Mercer (1736–1793), a judge of the Virginia General Court, also opposed ratification of the Constitution. John Fenton Mercer, another half brother, was killed in 1756 during the French and Indian War.

Herbert J. Storing, who believes that John Francis Mercer was the author of the address, writes that some of the arguments used in the address are similar to those employed by Mercer in a 14 August 1787 speech in the Constitutional Convention; by “A Farmer,” who published seven lengthy essays in the Baltimore *Maryland Gazette*. Although similarities can be found in Mercer’s Constitutional Convention speech and the essays by “A Farmer,” the speech seems to be unconnected—and at times even contradictory—to the address.

Gentlemen

The galling Chains of Despotizm under the oppressive weight of which nine tenths of our Fellow mortals groan—the Tortures which unfeeling Tyranny has invented and fearlessly practized in every Age and every Clime, are melancholy and terrifying proofs of the Incapacity of the *many* to defend those rights, which God and Nature gave them, from the artful and unceasing usurpations of the *Few*:—and they are frightful Lessons to teach us a watchful Jealousy of great and unnecessary Grants of Power and of changes in a State of Society which we know to be mild and free—Still there are moments of national Languor & Lethargy which the ambitious ever enterprizing mark with alacrity and use with Success.—The People long unaccustom’d in a good and guarded Government, to bold and selfish Designs in their Rulers, look up with an unsuspecting Confidence, to any alteration, which those entrusted with Power may propose—however unconstitutional the changes, if recommended by Men used to govern them, they seem to come forward under the Sanction of legal authority—if prepared in Secrecy—the

public mind taken by surprize, and every Engine previously set in Motion—the unconcerted & unconnected Defence of Individuals is branded with the opprobrious Epithet of *Opposition* and overwhelmed in the directed Tide of popular Clamour—a clamour which a Number of wealthy men may at all Times command at a small Expence from the most indigent of the [*Mob?*] Populace.—

We forbear to remark on the manner in which the Constitution proposed for the united States came forward—as the circumstances are known to you, your own Feelings will render any observations unnecessary.

The object of our present Address is to prevent your forming unjust Conclusions from the Adoption of the Constitution in the State of Maryland by so large a Majority of the Convention and the subsequent dissolution of that Body, without proposing any amendments.—

Permit us to assure You that the Torrent which burst forth at the Birth of the Constitution had but little Effect on the Minds of many of us—and altho' it might prevent our having that weight with our Countrymen, in the first Paroxysms of Phrenzy which for ever accompany great and sudden Revolutions in Government—we were yet determined not to be wanting in our Duty to the Republic, at that Moment when Reason should resume her Empire over the unagitated Minds of our fellow Citizens—from many Circumstances we despaired of this in Maryland untill the adoption of the Constitution—At that Period, when our Efforts could not be subjected to Calumniating Misrepresentation,—we expected that an Appeal to the reflection of our Countrymen, would be listened to with attention and produce those Effects which unanswered and unanswerable Reasons ought to command—All opposition being thus postponed & every necessary Step to inform the minds of our Citizens on one Side neglected—while unremitting Exertions by a Number of wealthy & respectable Characters were continued on the other—it cannot be surprizing that the Elections were generally favorable to the Constitution—In a very few of the Counties did any Candidates propose themselves against it—very few voted & even in those Counties where the Opposition succeeded by such a decided Majority—those Gentlemen's offering was merely accidental. They had refused every Solicitation of the People & had actually determin'd not to serve in Convention until within 6 Days before the Election—

That the People of the State would have made alterations & amendments a Condition of Adoption, is a Question which from the above Circumstances it is impossible to decide—but that four fifths of the people of Maryland are now in favor of considerable alterations and amendments, and will insist on them,—we dont hesitate to declare (as our Opinion) to you and the world.—The difference between Amending *before* or *after* Adoption, (provided it is amended) is certainly not worth a Distinction.—

We are persuaded that the People of so large a Continent, so different in Interests, so distinct in Habits, cannot in all cases legislate in one Body by themselves or their Representatives—By themselves it is obviously impracticable—By their Representatives it will be found on Investigation equally so—for if these representatives are to pursue the general Interest without Constitutional checks & restraints—it must be done by a mutual Sacrifice of the Interests,

wishes and prejudices of the parts they represent—and then they cannot be said to represent those Parts, but to misrepresent them—Besides as their Constituents cannot judge of their Conduct by their own Sense of what is right and proper—and as a representative can always in this view screen his abuse of Trust under the Cloak of Compromise, we do not see what check can remain in the Hands of the Constituents—for they cannot Know how far the Compromise was necessary, and the representative wrong—and to turn out and disgrace a Man when they cannot prove him wrong, and when he will have of Course the voice of the Body he is a Member of in his Favor, would in the Event be found subversive of the Principles of good Government.—

Thus then the pursuit of the general Interest produces an unchecked misrepresentation—but if Representatives are to pursue the partial Interests of the Districts they represent (which to recommend themselves to their Constituents it is most probable they will do) then the majority must ruin the Minority, for the majority will be found interested to throw the Burthens of Government upon that minority which in these States present a fair Opening by difference of *Cultivation—Importation and property*—In such extensive Territories governed by one Legislature, the Experience of Mankind tells us that if not by Preference the People will at least be led gradually to confide the legislative Power to the Hands of one man and his Family—who alone can represent the whole, without partial Interests and this is or leads to unlimited Despotizm¹—

We have not that permanent & fixed distinction of ranks or orders of Men among us, which unalterably seperating the interests & views, produces that division in pursuits, which is the great security of the mixed Government we seperated from, & which we now seem so anxiously to copy:—if the new Senate of the United States will be really opposite in their pursuits & views from the Representatives, have they not a most dangerous power of interesting foreign Nations by Treaty [to?] support *their* views?—for instance the relinquishment of the navigation of Mississippi—and yet these Treaties are expressly declared paramount to the Constitutions of the several States & being the *supreme Law*, must of course control the national legislature, if not supersede the Constitution of the United States itself—the check of the President over a Body, with which he must act in concert, or his influence & power be almost annihilated, can prove no great constitutional security; And even the Representative body itself—& much more the Senate—are not sufficiently numerous to secure them from corruption—for all Governments tend to corruption, in proportion as power concentrating in the hands of the *few*, renders them objects of corruption to Foreign Nations & among themselves—

For these & many other reasons we are for preserving the Rights of the State Governments, where they must not be necessarily relinquished for the welfare of the Union—& where so relinquished the line should be definitely drawn if under the proposed Constitution the States exercise any Power, it would seem to be at the mercy of the General Government—for it is remarkable that the clause securing to them those rights not expressly relinquished in the old Confœderation, is left out in the new Constitution;² And we conceive that there is no Power which Congress may *think* necessary to exercise for the *general Welfare*, which they may not

assume under this Constitution—& this *Constitution* & the Laws made under it are declared paramount even to the unalienable rights, which have heretofore been secured to the Citizens of these States by their Constitutional compacts.—

Altho' this new Constitution can boast indeed of a Bill of Rights of seven Articles—yet of what nature is that Bill of Rights? to hold out such a security to the rights of property as might lead very wealthy & influential Men & Families into a blind compliance & adoption—whilst the Rights that are essential to the great body of Yeomanry of America are entirely disregarded.—

Moreover those very powers, which are to be expressly vested in the new Congress, are of a nature most liable to abuse—They are those which tempt the avarice & ambition of Men to a violation of the rights of their fellow Citizens, & they will be screen'd under the sanction of an undefined & unlimited authority—Against the *abuse & improper* exercise of these special powers, the People have a right to be secured by a sacred Declaration, defining the rights of the Individual & limiting by them, the extent of the exercise—The People were secured against the abuse of those Powers by fundamental Laws & a Bill of Rights, under the Government of Britain & under their own Constitutions—That Government which permits the abuse of Power, recommends it; & will deservedly experience the tyranny which it authorizes; for the history of Mankind establishes the truth of this political adage—*that in Government what may be done will be done*

The most blind admirer of this Constitution must in his heart confess that it is as far inferior to the British Constitution, of which it is an imperfect imitation as darkness is to light—In the British Constitution, the rights of men, the primary objects of the social Compact—are fixed on an immovable foundation & clearly defined & ascertained by their Magna Charta, their Petition of Rights & Bill of Rights & their Effective administration by Ostensible Ministers, secures Responsibility—In this new Constitution—a complicated System sets responsibility at defiance & the Rights of Men neglected & undefined are left at the mercy of events; we vainly plume ourselves on the safeguard alone of Representation, forgetting that it will be a Representation on principles inconsistent with true & just Representation—that it is but a delusive shadow of Representation proffering in theory what can never be fairly reduced to practice—And after all Government by Representation (unless confirm'd in its views & conduct by the constant inspection, immediate superintendance, & frequent interference & control of the People themselves on one side, or an hereditary nobility on the other, both of which orders have fixed & permanent views) is [really?] only a scene of perpetual rapine & confusion—& even with the best checks it has failed in all the Governments of Europe, of which it was once the basis, except that of England.—

When We turn our Eyes back to the scenes of blood & desolation which we have waded through to separate from Great Britain—we behold with manly indignation that our blood & treasure have been wasted to establish a Government in which the Interest of *the few* is preferred to the Rights of *the many*—When we see a Government so every way inferior to that we were born under, proposed as the reward of our sufferings in an eight years calamitous war—our astonishment is only equal'd by our resentment—On the conduct of Virginia & New

York, two important States the preservation of Liberty in a great measure depends—the chief security of a Confœderacy of Republics was boldly disregarded & the old Confederation violated by requiring Nine States instead of 13. voices to alter the Constitution.—but still the resistance of either of these States in the present temper of America (for the late conduct of the Party here must open the eyes of the People in Massachusetts with respect to the fate of their amendments)³ will secure all that We mean to contend for—THE NATURAL & UNALIENABLE RIGHTS OF MEN in a Constitutional manner—At the distant appearance of danger to these, We took up Arms in the late Revolution—& may we never have cause to look back with regret on that period when connected with the Empire of Great Britain, We were *happy, secure & free.*—

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