

Chapter 9

Majority Rule vs. Checks and Balances

The United States is known throughout the world as the first modern democracy. Most Americans, however, are mistaken in their belief that their leaders from the earliest times believed in this form of government the way we do today. Many of the Founders actually expressed very hostile opinions about democracy because they had serious reservations about the people's ability to judge and determine right. On the other hand, they also believed that the people — not kings, nobles, church leaders, or God — had to be the ultimate source of all government power. The problem the Founders faced was how to base a government on the people who, they believed, were uninformed and likely to be misled. The answer to this dilemma was to allow the states to decide who could vote, but to



have a system of checks and balances on the power of those judged fit to elect their leaders. Deciding on how much democracy and how many checks and balances were needed was one of the most important issues at the convention. What follows is a reconstruction of speeches on this topic given at the Constitutional Convention:

The Debate

Mr. Madison of Virginia: *How long should we allow senators to hold office? In answering this question, we must consider the purpose of the senate. This is first to protect the people against their rulers, and second to protect the people against their own foolishness. An obvious precaution against this danger would be to divide the trust between different bodies of men who would be elected at different times and thus be able to watch and check each other.*

In all civilized countries, the people fall into different classes having a real or supposed difference of interests. There will always be debtors and creditors, farmers, merchants, and manufacturers. Most particularly there will be distinctions between the rich and the poor.

An increase of population over the ages will increase the number of those who labor under all the hardships of life and secretly sigh for a more equal distribution of its blessings. These may in time outnumber those who are placed above the feelings of comfort. According to the equal laws of voting, the power will slide into the hands of the poor. The symptom of their desire to divide riches among themselves has already been revealed in Shays' rebellion. We at the Convention must decide how is this danger to be guarded against in the future.

Let us, therefore, establish a senate with nine-year terms for senators. Let it gain sufficient respect for its wisdom and virtue and let it thus act to protect the minority against oppression by the majority.

Mr. Sherman of Connecticut: *Mr. Madison forgets that the government is instituted for those who live under it. It should not, therefore, be constructed in such a way to be dangerous to their liberties. The more permanent, the worse if it be bad government. Frequent elections are necessary to preserve the good behavior of rulers.*

Colonel Hamilton of New York: *Gentlemen, may I speak frankly to you? The debates here are confidential, and I am certain you will not publish my personal opinions. I fear democracy and representative government, and I am not certain that a democracy can be established in our nation. We should hold up to ourselves the model set by Great Britain. Though it is not popular to admit this, we must acknowledge that the British have the wisest and best government in the world: one that unites public strength and individual security.*

In every community in the civilized world, there will be divisions between the few and the many. Hence, separate interests will arise. There will be debtors and creditors, landed interests and land-less, rich and poor. If we give all power to the rich, they will oppress the poor. Both, therefore, must have power to defend themselves against the other. Because we don't have this check on the many, we have our paper money laws and similar mischief we find in every state.

The British constitution solves this problem. Their House of Lords is a most noble institution. Because they have nothing to gain from change, they form a permanent barrier against every foolish plan, whether attempted by the Crown or the Commons. No temporary senate in our country will be firm enough to serve this purpose. We need a permanent body of men who will serve in the senate for life, like the Lords.

As to the executive, it must be admitted that no good one can be established under democratic principles. The English model is a good one here, too. A hereditary king has his interests so interwoven with the interests of the nation that there is no danger of his being corrupted from abroad or dependent and controlled at home.

We ought to go as far as possible toward ensuring stability and permanence at home. Let one branch of the legislature hold office for life or at least during good behavior. Let the executive also be for life.

Is this a democratic government, you will ask? Yes, if all the officeholders are appointed and vacancies are filled by the people, or through a process of election originating with the people.

General Pinckney of South Carolina: *Sir, you are right! I only want to add that the senate must represent the wealth of the country. Let it therefore be composed of wealthy persons. We can assure this if we do not pay the senators; only the rich could afford to serve.*

Mr. Gerry of Massachusetts: *Let us be sure that the people do not select senators. The people are uninformed and are likely to be misled. Let the state legislatures choose the senators, and let the president of the United States be chosen by electors rather than voters.*

Mr. Madison of Virginia: *It is a fundamental principle of free government that the legislative, executive, and judiciary powers should be separate. The executive must, therefore, be independent of the legislators. It is essential, then, that the appointment of the executive be drawn from some source or held in some manner that will make him independent of the legislature. This could not be if he were appointed from time to time by the legislature.*

Mr. Wilson of Pennsylvania: *It seems evident that the executive should not be appointed by the legislature unless he is made ineligible for a second term. I am glad to see that the idea is*

gaining ground that the people themselves, or electors chosen by the people, should elect the executive.

Mr. Morris of Pennsylvania: *The president should be elected by the people at large, by the freeholders [men who owned property free and clear of debts and mortgages] of the country. It's true that this will cause difficulties; but they have proven to be surmountable in New York and in Connecticut. I believe it would work for the United States as well. If the people have the chance to elect a president, they will never fail to prefer some man of distinguished character or services. If the legislature elects the president, it will be the work of intrigue or a faction; it will be like the election of a pope by the cardinals of the Church.*

Mr. Mason of Virginia: *The people should not be trusted to elect a president. It is as unnatural to have the people elect the president as it would be to refer a trial of colors to a blind man. The size of this country makes it impossible that the people can have the ability to judge the various claims of the candidates for president.*

Mr. Gerry of Massachusetts: *That the executive should be independent of the legislature is a clear point. The longer the duration of his appointment, the more his dependence on the legislature will be diminished; it will be better for him to continue 10, 15, or even 20 years and be ineligible afterwards.*

Mr. King of Massachusetts: *Say 20 years. That is the average life of a king.*

Mr. Wilson of Pennsylvania: *My opinion remains unshakable that we ought to resort to the people for election.*

Mr. Sherman of Connecticut: *The people should have as little to do as may be about the government. They lack information and are constantly misled.*

Mr. Ellsworth of Connecticut: *The people will not readily accept the national constitution if it should deprive them of the vote. The states are the best judges of who among their people should have the right to vote.*

Mr. Dickinson of Delaware: *The freeholders* are the best guardians of liberty in the country. It is necessary to restrict the vote to them as a defense against the dangerous influence of the hordes of ignorant men devoid of principle and property.*

Mr. Gorham of Massachusetts: *I know of no cases anywhere that they allowed freeholders to vote that it caused any problems. The elections in Philadelphia, New York, and in Boston — where the mechanics vote — are at least as good as those made by freeholders only. The people have been long accustomed to this right in various parts of America and will never allow it to be abridged. We must consult their customs if we expect their support in our work.*

Mr. Morris of Pennsylvania: *Give the votes to people who have no property and they will sell them to the rich, who will be able to buy them. We should not think only of the present time. The time is not too distant when this country will be filled with property-less workers, laborers who will receive their bread from their employers. Will such men be safe and faithful protectors of liberty? Will they protect against a moneyed aristocracy? I am a little confused by the words "taxation and representation." The man who does not give his vote freely is not represented. It is the man who dictates the vote who is represented. Children do not vote. Why? Because they lack*

* persons who own property free and clear of debts.

the sense and have no will of their own. The ignorant and the dependent cannot be trusted with the common interest.

Mr. Madison of Virginia: *Let's view the subject on its merits alone. The freeholders of the country are the safest guardians of republican liberty. In future times, a great majority of the people will not only be without land, but any other sort of property. These will either combine under the influence of their common situation (if they have the vote) or will become the dangerous tools of ambitious men who buy their votes.*

Dr. Franklin of Pennsylvania: *We should not underestimate the honesty and public spirit of our common people. They displayed a great deal of it during the war and contributed principally to winning it. I think we can trust the common man in America to vote intelligently and not sell his vote.*

In any case, the elected do not have the right to take the vote from the electors. Let me quote the British law setting forth the danger of unruly meetings, and with that excuse, reducing the voting rights to persons having freeholds of a certain value. This law was soon followed by another, subjecting the people who had no votes to certain labors and great hardships.

I am persuaded also that such restrictions as were proposed would give great cause for concern in the states. The sons of a substantial farmer, not being themselves freeholders, would not be pleased at being disfranchised, and there are a great many persons of that description.

Mr. Gerry of Massachusetts: *The evils that we experience flow from the excess of democracy. The people do not lack virtue, but are the dupes of pretended patriots. In Massachusetts, it has been fully confirmed by experience that they are daily misled into the most wicked measures and opinions by false reports circulated by designing men which no one on the spot can refute. I have once stood for a representative government and I am still for a representative government, but I have been taught by experience the danger of the leveling [democratic] spirit.*

Mr. Martin of Maryland: *From the best judgment I could form while at this convention, I have come to the opinion that ambition and interest have so far blinded the understanding of some of you people writing this Constitution that you are working only to erect a government from which you will benefit, and that you are completely insensitive to the freedom and happiness of the states and their citizens. I most honestly believe that your purpose is to totally abolish all the state governments and build in their ruins one great extensive empire. You want this empire to raise its rulers and chief officers far above the herd of mankind, to enrich them with wealth, and to encircle them with honors and glory. This honor and glory will be won at the cost of humiliation and enslavement of the average citizens, whose sweat and toil will be used to enrich these greedy men.⁶*

Three important positions considered at the Convention include:

The democratic alternative: All men age 18 and over should be allowed to vote; the President, all Senators and Representatives should be elected by the voters and should be eligible for re-election. Their terms of office should be 3, 4, and 2 years respectively

⁶ Max Farrand, ed., *The Records of the Federal Convention*, New Haven, Connecticut, 1937. Speeches have been freely adopted from this source.

(Franklin, Martin, and Wilson might have supported this position; they could possibly have had the support of Ellsworth, Gorham, Lansing, and Williamson.)

The aristocratic alternative: Only male freeholders age 21 & older should be allowed to vote. The President should be elected by electors appointed by the states and serve one 10 year term; Senators would be elected by the states and serve one 7 year term; Representatives would be elected by voters and serve an unlimited number of 4 year terms.

(Hamilton, King, Madison, Morris, Pinckney, and Rutledge would have supported this position; they would have support from Dickinson, Mason, Gerry and Read)

A Compromise: Some compromise between the extreme aristocratic and extreme democratic position would probably have been negotiated.

(Paterson, Pierce, Randolph, Sherman, and Washington would probably have been in this category.)

Student Exercises:

1. Restate the issue before the convention, using your own words.
2. Take notes on the reading covering the convention debate. Make sure that you have understood each of the speeches. You should be able to figure out: (a.) what the person is saying, (b) how he is supporting his point, (c) whether or not you agree with him and why.
3. If your delegate has a position on the issues in this debate, summarize this position in not fewer than 20 words. Then write a 100-150-word statement giving several strong arguments supporting his case. You should use arguments that delegates with similar views made in their speeches, and you should make references to things that have been discussed in class before; **or**
4. If it is your turn to make a speech, write a really strong speech (of 200-250 words), showing why you think the issue is important and why people should agree with you. Use dramatic flourishes, humor, and analogies. You should borrow arguments from other delegates and make reference to things discussed in class. Give the kind of speech you'd enjoy hearing. Practice the speech at home; **or**
5. If your delegate does not have a position on this issue, come to class ready to be convinced or to make a deal.