

Father of The Bill of Rights



By Paul Engel

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- We know the Constitution has a Bill of Rights. But do you know the man most responsible for that document?
- After writing about the Virginia Bill of Rights, I wanted to learn more about the man who brought us that document.
- Learning about the struggles George Mason went through to give us that document, I see he has earned the title *Father of the Bill of Rights*.

While writing my last two articles about the Virginia Bill of Rights, I became more and more impressed by the person who had written them. I decided to do some research on this little known, but extremely important Founding Father, and what I found did not diminish my opinion of him. So today, let's take a closer look at George Mason, the man known as the Father of the Bill of Rights.

Like most Americans, the vast majority of our Founding Fathers were a mystery to me. Sure, we've heard of George Washington, John Adams, and Benjamin Franklin, but what about Benjamin Rush, Gouverneur Morris, or the subject of this article, George Mason? Most Americans treasure the Bill of Rights, but know nothing about the man who made sure we have one.

Citizen Politician

George Mason was a Virginia land owner and early proponent of independence. When the British Parliament imposed improper

taxes on the colonies, he pushed to boycott British goods. He spoke eloquently about states' rights and against slavery, even though he owned many (because it was illegal under British law to free slaves).

Although described as detesting politics, George Mason helped develop strategies to get around the Stamp Act of 1765 and served briefly in Virginia's House of Burgesses, as well as in both the Fourth and Fifth Virginia Conventions. While he's probably best known for the Virginia Declaration of Rights, he also worked on Virginia's Constitution.

Mason spent most of his time during the Revolutionary War protecting Fairfax County and serving in the House of Delegates, although he often missed sessions due to bad health. In 1777 he was assigned to the committee to revise Virginia's laws, but resigned on the grounds that he was not a lawyer.

Constitutional Convention

George Mason went to the Constitutional Convention in 1787, and was one of its more influential delegates. Mason consistently supported a formal amendment process (something missing from the Articles of Confederation), and although he was a slave owner, gave an impassioned speech against the institution of slavery. Suspicious of government, Mason understood the need for a central government more powerful than that under the Articles of Confederation, but he wanted to make sure it would not threaten local interests. Mason was the first to propose that the seat of the central government not be in a state capital to avoid that state's legislature being too influential. Although overshadowed by Patrick Henry, Mason was among the anti-Federalists and key to the adoption of the Bill of Rights.

On September 12, 1787, Elbridge Gerry proposed, and George Mason seconded, that a committee be appointed to write a bill

of rights to be included in the proposed constitution. That proposal failed, however, with ten states opposing it and not a single one supporting it. This is also why, when the Constitution was signed by the delegates on September 17th, three men refused to sign it: George Mason, Eldbrige Gerry, and Edmund Randolph.

Ratification

George Mason almost immediately began writing his *Objections to this Constitution of Government in Philadelphia*. While this document was published, it was apparently without Mason's permission. His 'Objections' were widely cited in opposition to ratification, although Mason himself was criticized for writing it under his own name. At the time, political tracts were signed using pen names. Despite the criticism, 'Objections' became one of the most influential works in the Anti-Federalist movement. In fact, the opening line, "There is no Declaration of Rights" became the Anti-Federalist's slogan.

Although Mason had difficulties winning election to Virginia's ratification from the Fairfax county, which he represented in the House of Delegates, the rules governing the convention allowed him to run in any county where he owned property. He sought and won election from Stafford County, and renewed his fight for a Declaration of Rights to be included in the Constitution.

By the time the Virginia Ratification Convention opened, Edmund Randolph had abandoned his Anti-Federalist position, making George Mason's goal even harder to achieve. The political infighting was intense, and for a long time it looked like the Constitution would be ratified as is. Finally, a resolution was considered to withhold ratification pending approval of a declaration of rights, which was defeated 88-80, and on June 25, 1788, the Convention ratified the Constitution by a vote of 89-79. Following the ratification, Mason served on a committee to compile a list of recommended amendments,

and by and large, Mason's draft was adopted.

I believe George Mason's influence, especially his 'Objections,' help show others the shortcomings in the proposed Constitution. The convention in Massachusetts was so contentious it erupted into a fist fight when Anti-Federalist Eldbridge Gerry was not allowed to speak. The impasse was eventually resolved when Samuel Adams and John Hancock, both Anti-Federalists, agreed to ratification on the condition that the convention also propose amendments. This became known as the Massachusetts Compromise, and included a requirement for grand juries in capital cases and reserving to the states powers not delegated to the United States.

Drafting the Bill of Rights

Although James Madison was originally opposed to Mason's idea of a declaration of rights, he gradually came to understand the importance of having one. Although opposed by James Monroe in the first election for the House of Representatives, Madison won, in part due to a pledge to introduce amendments to the Constitution forming a bill of rights. Madison was greatly influenced by the state constitutions, including the Virginia Declaration of Rights, authored by George Mason. Seventeen articles were approved by the House of Representatives, but only twelve by the Senate. After some negotiation, including the rewording of some of the articles, these twelve amendments were approved by Congress and sent to the states for ratification. Ten were ratified in 1791, and one was not ratified until 1992.

Conclusion

George Mason returned to his home at Gunston Hall, where he devoted himself to his family, his health, and local affairs, although he did keep up his correspondence with political leaders. He ended up resigning from the Fairfax County Court after an act of Congress required officeholders to take an

oath to support the Constitution.

Although George Mason died in 1792, he did live long enough to see his idea of a declaration of rights added to the Constitution. After reading both documents, I think you will agree that most of the ideas George Mason included in the Virginia Declaration of Rights in 1776 ended up in the Bill of Rights in 1791. While some may consider James Madison the father of the Bill of Rights, due to his drafting of the amendments, its true parentage goes back to George Mason and his Virginia Declaration of Rights.

Two things, other than the Virginia Declaration of Rights, struck me when I looked at this Founding Father. First, Mason was not a lawyer. Since so many of our “political class” seem to start in law school today, what’s sad now is when you consider that most of those schools do not teach the actual language of the supreme law of the land anymore. Instead, they teach judges opinions, in what is euphemistically called “constitutional law”. It warms my heart, especially after being repeatedly asked if I am a lawyer simply because I study, teach, and advise on the Constitution, that this non-lawyer succeeded in so many of his endeavors.

The second thing that strikes me is Mason’s tenacious adherence to what he believed was right. Being outnumbered, in both the Constitutional Convention and the Virginia Ratification Convention, did not stop him from sticking to his guns. Even in defeat at the Virginia Convention, he was still able to submit his recommendations for amendments. It reminds me of something said by another Founding Father, John Quincy Adams, when asked why he persisted in the face of what looked like insurmountable odds,

The duty is our, results are God’s

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