SCRIPTA HIEROSOLYMITANA
PUBLICATIONS OF THE HEBREW UNIVERSITY, JERUSALEM

offprint from

VOLUME XXXII

STUDIES IN
AMERICAN CIVILIZATION

EDITED ON BEHALF OF
THE DEPARTMENT OF AMERICAN STUDIES

BY

E. MILLER BUDICK, ARTHUR A. GOREN
SHLOMO SLONIM

JERUSALEM, 1987
THE MAGNES PRESS, THE HEBREW UNIVERSITY
Three of the delegates present at the close of the Constitutional Convention on 17 September 1787 declined to sign the completed document. One of the three was George Mason, delegate from Virginia. (The other two were fellow Virginian, Governor Edmund Randolph, and Elbridge Gerry from Massachusetts.) Mason, of course, is renowned as the author of the 1776 Virginia Declaration of Rights, the forerunner of the bills of rights in the other state constitutions. But Mason's refusal to sign, coupled with certain remarks he made in the course of the Convention discussions, might be taken as evidence that Mason was opposed to popular government. His remarks were delivered during the Convention debate on devising procedures for electing an executive. The Convention had initially decided to provide for selection by the "National Legislature." Subsequently, Gouverneur Morris of Pennsylvania had moved that the executive be chosen, instead, by "citizens of U.S.," i.e. by popular election. In support of his proposal Morris had argued that:

He ought to be elected by the people at large, by the freeholders of the Country,... If the people should elect they will never fail to prefer some man of distinguished character or services; some man... of continental reputation.

To this, Mason retorted as follows:

A Government which is to last ought at least to be practicable. Would this be the case if the proposed election should be left to the people at large.... it would be as unnatural to refer the choice of a proper character for a Chief Magistrate to the people, as it would, to refer a trial of colours to a blind man. The extent of the Country renders

2 Ibid., I, 230; II, 29.
3 Ibid., II, 22, 29.
4 Ibid., p. 29.
it impossible that the people can have the requisite capacity to judge
of the respective pretensions of the Candidates.  

At a later stage of the debate Mason said:

It has been proposed that the election [of the executive] should be
made by the people at large; that is that an act which ought to be
performed by those who know most of Eminent characters & qualifica-
tions, should be performed by those who know least.  

These remarks would seem to reflect a decidedly elitist, even aristocratic,
philosophy of government. They would appear to be quite averse to demo-
cratic notions.

Remarkably enough, not one of the three biographers of Mason  draws
attention to his severely critical comments on the popular election of an
executive, nor do any of them attempt to reconcile Mason’s remarks with
his general liberal philosophy. One of his biographers, Robert Rutland, even
goes so far as to assert:

That “all power is vested in, and consequently derived from, the people”
moved him [Mason] even to consider supporting popular elections for
president, an advanced suggestion that he made no further show of
favoring when it grew obvious that most of the Convention was ap-
palled by it.  

No one was more appalled by it than Mason himself, as the foregoing ex-
tracts make clear. It is true that Mason on one occasion states that he “favors
the idea [of popular election of the executive] but thinks it impracticable.”  
However, this remark only makes his subsequent comment comparing popular
election to a trial of colors by a blind man even more puzzling and demanding
of an explanation. Rutland does not address himself to this question at all.
The present paper, in an effort to elucidate Mason’s philosophy of govern-

---

5 Ibid., p. 31.
6 Ibid., p. 119.
7 Kate Mason Rowland, The Life of George Mason, 1725–1792 (New York:
1892); Helen Hill Miller, George Mason: Constitutionalist (Cambridge, Mass.:
Harvard, 1938 and 1966); and Robert A. Rutland, George Mason: Reluctant
Statesman (Charlottesville, Va.: Dominion, 1961).
8 George Mason: Reluctant Statesman, p. 84. See also his “George Mason: The
Revolutionist as Conservative,” in Ralph A. Rossum and Gary L. McDowell,
eds., The American Founding: Politics, Statesmanship and the Constitution (Port
9 Farrand, Records, I, 69. On the Convention’s consideration of procedures for
electing an executive see Shlomo Slonim, “The Electoral College at Philadelphia:
The Evolution of an Ad Hoc Congress for the Selection of a President,” Journal
of American History 73 (June 1986), 35–58.
ment, as revealed at the Constitutional Convention, will seek answers to the following three questions: 1) To what extent did Mason's known liberal views project themselves into the Convention debates? 2) How can Mason's liberal views be squared with his comments on popular selection of the executive? 3) Does Mason, notwithstanding his refusal to sign the final document, qualify as a Founding Father?

In order to ascertain Mason's real views on the philosophy of government and to assess the measure of his contribution to the drafting of the Constitution, it is proposed to examine his comments on certain key features of the Constitution as these arose for discussion in the course of the Convention.¹⁰

MODE OF ELECTION OF THE MEMBERS OF THE LOWER HOUSE OF THE LEGISLATURE

As one of its first acts, the Convention on 31 May took up for consideration the composition of the lower house of the legislature and the mode of election of its members.¹¹ The Virginia Plan, which Governor Randolph had two days earlier presented to the Convention, provided for popular election of the representatives.¹² This proposal was criticized by several delegates who charged that it allowed too much sway to democracy. Thus, Elbridge Gerry of Massachusetts averred: "The evils we experience flow from the excess of democracy. The people do not want [lack] virtue; but are the dupes of pretended patriots."¹³ The same thought was echoed in the remarks of Roger Sherman of Connecticut: "The people... should have as little to do as may be about the Government. They want [lack] information and are constantly liable to be misled."¹⁴ The minutes record Mason's response as follows:

Mr. Mason, argued strongly for an election of the larger branch by the people. It was to be the grand depository of the democratic principle of the Govt. It was, so to speak, to be our House of Commons—It ought to know & sympathise with every part of the community; and ought therefore to be taken not only from different parts of the whole republic, but also from different districts of the larger members of it, which had in several instances particularly in Virg., different interests and views arising from difference of produce, of habits &c &. He admitted that we had cautiously run into the rights of every class of indifference of the super & policy, considering elevated their situations might but certainly would lowest classes of Society, attachment, ought to not provide no less careful than of the highest order.

These views were warmly endorsed by James Madison of Virginia in the margin, (6:2:2), adoption of the first branch of the legislature.

Despite the overwhelming popular will and view of state sovereignty by early June Mason spoke of the House. On 6 June Mr. Pindar branch of the national Legis- not by the people." Mason ob- jected.

Under the existing Constitution of the States, we are individuals. The case was not with people; people will be repre- sentatives. The result should sympathize with their feelings as they feel; and, among them. Much he.

He admitted that much no Govt. was free from elections in many states. But compare these with the people.¹⁰

¹⁰ George Mason was one of the first delegates to arrive at Philadelphia, 17 May (even before there was a quorum), and he remained to the very final day of the Convention, 17 September. See Farrand, Records, III, 22-28 and II, 632, 648-49.
¹¹ Ibid., I, 46 and 48.
¹² Ibid., p. 20.
¹³ Ibid., p. 48.
¹⁴ Ibid.
admitted that we had been too democratic but was afraid we sd. incautiously run into the opposite extreme. We ought to attend to the rights of every class of the people. He had often wondered at the indifference of the superior classes of society to this dictate of humanity & policy, considering that however affluent their circumstances, or elevated their situations, might be, the course of a few years, not only might but certainly would, distribute their posterity throughout the lowest classes of Society. Every selfish motive therefore, every family attachment, ought to recommend such a system of policy as would provide no less carefully for the rights—and happiness of the lowest than of the highest orders of Citizens.\textsuperscript{15}

These views were warmly endorsed by James Wilson of Pennsylvania and by James Madison of Virginia and\textsuperscript{16} as a result, the Convention, by a decisive margin, (6:2:2), adopted on 31 May a resolution providing for “election of the first branch of the national Legislature by the people.”\textsuperscript{17}

Despite the overwhelming majority which endorsed this decision, supporters of state sovereignty repeatedly endeavoured to have it reversed. On each occasion Mason spoke out firmly on behalf of a popularly elected lower house. On 6 June Mr. Pinckney of South Carolina moved “that the first branch of the national Legislature be elected by the State Legislatures, and not by the people.” Mason objected as follows: \textsuperscript{18}

Under the existing Confederacy, Congs. represent the States not the people of the States: their acts operate on the States not on the individuals. The case will be changed in the new plan of Govt. The people will be represented; they ought therefore to choose the Representatives. The requisites in actual representation are that the Reps. should sympathize with their constituents; shd. think as they think, & feel as they feel; and that for these purposes shd. even be residents among them. Much he sd. had been alledged agst. democratic elections. He admitted that much might be said; but it was to be considered that no Govt. was free from imperfections & evils; and that improper elections in many instances, were inseparable from Republican Govts. But compare these with the advantage of this Form in favor of the rights of the people.\textsuperscript{19}

\textsuperscript{15} Ibid., pp. 48-49.
\textsuperscript{16} Thus, according to Yates, “Virginia supported the resolve, alleging that this ought to be the democratic branch of government, and as such, immediately vested in the people.” Ibid., p. 55.
\textsuperscript{17} Ibid., pp. 46, 50.
\textsuperscript{18} Ibid., pp. 130, 132.
\textsuperscript{19} Ibid., pp. 133-34.
Upon this occasion the Convention by an even greater margin than before (8:3), rejected Pinckney’s proposal and confirmed popular election of the lower house.20

Barely two weeks later, however, two attempts, on 20 and 21 June, were made to revise this decision. On 20 June Lansing of New York proposed that the Convention abandon the idea of a bicameral legislature altogether and retain the state-appointed one house Congress of the Articles of Confederation.21 Mason declared he “did not expect this point would have been reagitated.”

Is it to be thought that the people of America, so watchful over their interests; so jealous of their liberties, will give up their all, will surrender both the sword and the purse, to the same body, and that too not chosen immediately by themselves? They never will. They never ought. Will they trust such a body, with the regulation of their trade, with the regulation of their taxes; with all the other great powers, which are in contemplation? 22

Lansing’s proposal was defeated by a vote of 6:4:1.23

On the morrow, 21 June, Pinckney once again revived his proposal for having the state legislatures, rather than the people, choose the members of the lower house of the national legislature.24 Mason once again condemned the proposal.

Whatever inconvenience may attend the democratic principle, it must actuate one part of the Govt. It is the only security for the rights of the people.25

In Yates’s version of the debate Mason’s remarks are reported as follows:

I am for preserving inviolably the democratic branch of the government—True, we have found inconveniences from pure democracies: but if we mean to preserve peace, and real freedom, they must necessarily become a component part of a national government.26

---

20 Ibid., pp. 130, 137–38.
21 Ibid., pp. 334, 336.
22 Ibid., pp. 338–39.
23 Ibid., pp. 334, 344.
24 Ibid., pp. 353, 358.
25 Ibid., p. 359.
26 Ibid., p. 364. In a similar vein, in discussing the nature of the executive branch of government Mason declared: “Notwithstanding the oppressions & injustice experienced among us from democracy; the genius of the people is in favor of it, and the genius of the people must be consulted.” Ibid., p. 101.

By a vote of 4:6:1 the Convention confirmed its earlier stand in favor of popular election of the lower house.

Qualifications of Electors to Vote

Mason had occasion to demonstrate the popular election of the lower house, and the property qualification for electors.

The revised draft of the Detail on 6 August provided:

The members of the lower house shall be elected, every second year, by the people of the several States, this Union. The qualifications of electors to vote time to time, as those of the numerous branch of the legislature shall be provided for.

In the debate, Gouverneur Morris modified this paragraph so as to limit the qualifications for electors, Mason, joined forces with Hamilton to oppose the democratic proposal.

Eight or nine States think all freeholders. What will the members of the numerous branch of the legislature be? Freeholders. Does no other interest in the property, the permanent attachment. Of a number of children, the boys, of a number of children, <Country>, to be voted for, trusted with the commune...

In the minutes recorded by Charles F. Adams follows:

27 Ibid., p. 353, 360.
28 Ibid., II, 178.
29 Ibid., pp. 194, 201.
30 Ibid., pp. 201–3.
By a vote of 4:6:1 the Convention rejected Pinckney's proposal and reconfirmed its earlier stand in favor of a democratically elected lower house.27

Qualifications of Electors to Lower House

Mason had occasion to demonstrate a liberal viewpoint not only in advocating popular election of the lower house but also in rejecting proposals for a property qualification for exercising the right of suffrage to that chamber.

The revised draft of the constitution reported upon by the Committee of Detail on 6 August provided as follows:

The members of the House of Representatives shall be chosen every second year, by the people of the several States comprehended within this Union. The qualifications of the electors shall be the same from time to time, as those of the electors in the several States, of the most numerous branch of their own legislatures.28

In the debate, Gouverneur Morris moved to strike out the last part of the paragraph so as to limit the right of suffrage to freeholders.29 Once again, Mason, joined forces with Madison and James Wilson in opposing an anti-democratic proposal.

Eight or nine States have extended the right of suffrage beyond the freeholders. What will the people there say, if they should be disfranchised... We all feel too strongly the remains of antient prejudices, and view things too much through a British Medium. A Freehold is the qualification in England, & hence it is imagined to be the only proper one. The true idea in his opinion was that every man having evidence of attachment to & permanent common interest with the Society ought to share in all its rights & privileges. Was this qualification restrained to freeholders? Does no other kind of property but land evidence a common interest in the proprietor? does nothing besides property mark a permanent attachment. Ought the merchant, the monied man, the parent of a number of children whose fortunes are to be pursued in their own <Country>, to be viewed as suspicious characters, and unworthy to be trusted with the common rights of their fellow Citizens.30

In the minutes recorded by Rufus King, Mason's remarks are reported as follows:

27 Ibid., p. 353, 360.
28 Ibid., II, 178.
29 Ibid., pp. 194, 201.
30 Ibid., pp. 201-3.
I think every person of full age and who can give evidence of a common Interest with the community shd. be an Elector—under this definition has a Freeholder alone ys [this] common Interest—? I think the Father of a Family has this interest—his Children will remain—this is a natural Interest—a Farm & other property is an artificial interest—we are governed by our prejudices in favr. of Engd.—there a Twig, a Turf is the Elector—.31

The liberal alliance held firm and Gouverneur Morris’s attempt to limit the franchise to freeholders was defeated by a vote of 1:7:1.32

Although Mason was opposed to the imposition of property qualifications for the right of suffrage to, or membership in, the lower house, he did, however, advocate a property test for membership in the Senate. “One important object in constituting the Senate,” he declared “was to secure the rights of property.” He therefore favored “the propriety of annexing to the office a qualification of property.”33 This suggestion reveals that Mason, notwithstanding his liberal views, embraced the then popular notion of “mixed or balanced government” i.e. a government composed of three elements—democracy, aristocracy and monarchy. The lower house would represent democracy; the upper house, aristocracy; and the executive, monarchy. The doctrine was particularly popular with the Convention delegates.34 Thus, in discussion on the Senate, General Charles C. Pinckney of South Carolina, supported by the venerable Benjamin Franklin, recommended that no salary be paid to members of the upper house. “As this branch was meant to represent the wealth of the Country, it ought to be composed of persons of wealth; and if no allowance was to be made the wealthy alone would undertake the service.”35 Likewise, Pierce Butler of South Carolina declared:

“This second branch I consider as the Investment for the people in the Senate.

Underlying this approach was the idea that the popularly elected lower branch would serve as a check on the stronger branch.

The Rich will strive to form the lower branch and to keep it so.

They always did. They will reelect their candidates to each other. Let them get the rich men in the upper branch and they will have nothing to fear.

The Country, they will not mind, for it is divided.

And the aristocracy, though they will not like it, they will be the dominant role in the Senate.

The Initiation of Money Bills

As part of the Connecticut Compromise, the framers decided that money bills in the Senate would have to be presented by a member of the Senate.36 The Constitution provided that the Senate would have the power to pass money bills, but only if a majority of the members present voted in favor of the bill.37

The consideration of the money bill branch would be the

31 Ibid., pp. 207–8.
32 Ibid., pp. 194, 206.
33 Ibid., I, 428, 433.
34 See the discussion on the term of office for Senators, ibid., pp. 421–34.
35 On the subject of mixed government as reflected in the writings of John Adams, and his influence on constitution making at both the state and federal levels from 1776 to 1787, see Bernard Bailyn, The Ideological Origins of the American Revolution (Cambridge, Mass.: Harvard, 1967), pp. 272 ff. and Gordon S. Wood, The Creation of the American Republic 1776–1787 (New York: Norton, 1969), chaps. 6 and 14. See also the letter from Convention delegate Benjamin Rush to Richard Price on 2 June 1787. “Mr. Adams's book has diffused such excellent principles among us, that there is little doubt of our adopting a vigorous and compounded federal legislature. Our illustrious minister in this gift to his country has done us more service than if he had obtained alliances for us with all the nations of Europe.” Farrand, Records, III, 33.
36 Farrand, Records, I, 426–27.
37 Ibid., pp. 512–13; see also note 36.
38 See text below, at no. 57.
39 Farrand, Records, I, 524.
“This second branch I consider as the aristocratic part of our government.”

It was in this vein that Mason recommended a property qualification for membership in the Senate.

Underlying this approach lay the notion that the aristocracy should be isolated in one part of the legislature to ensure that it would not dominate the popularly elected lower house. Gouverneur Morris expressed this sentiment in the strongest terms.

The Rich will strive to establish their dominion and enslave the rest. They always did. They always will. The proper security agst. them is to form them into a separate interest. The two forces will then controul each other. Let the rich mix with the poor and in a Commercial Country, they will establish an Oligarchy... By thus combining and setting apart, the aristocratic interest, the popular interest will be combined agst. it. There will be a mutual check and mutual security.37

But with all his solicitude for the Senate, Mason remained “jealous” of its aggrandizing tendencies. Albeit sound government required a balancing process, this did not mean that the two parts of the legislature should be on an absolute par. As will be seen in the next section, Mason opposed allowing the Senate an equal voice with the House on money bills. Subsequently, he complained bitterly about the range of powers conferred on the Senate. In listing the factors which prompted him to abjure from signing the Constitution, the dominant role of the Senate, operating independently or in conjunction with the President, was a key consideration.38

The Initiation of Money Bills

As part of the Connecticut Compromise which accorded each state an equal vote in the Senate, it was also provided that money bills should originate only in the lower house.39 The debate on this clause presented a further occasion for Mason, who was a member of the committee which hammered out the Connecticut Compromise, to give voice to what could best be labeled populist views.

The consideration which weighed with the Committee was that the 1st. branch would be the immediate representatives of the people, the 2d.

36 Ibid., p. 434.
37 Ibid., pp. 512-13; see also p. 517. Later Morris said: “There never was, nor ever will be a civilized Society without an Aristocracy. His endeavor was to keep it as much as possible from doing mischief.” Ibid., p. 545.
38 See text below, at no. 57 ff.
would not. Should the latter have the power of giving away the peoples money, they might soon forget the Source from whence they received it. We might soon have an aristocracy.\(^{40}\)

Subsequently, on this same issue, he had the following to say on the Senate.

An aristocratic body, like the screw in mechanics, workig. its way by slow degrees, and holding fast whatever it gains, should ever be suspected of an encroaching tendency—The purse strings should never be put into its hands.\(^{41}\)

And, at a later point in the debate,

The Senate did not represent the people, but the States in their political character. It was improper therefore that it should tax the people. . . . the Senate is not like the H. of Reps. chosen frequently and obliged to return frequently among the people. . . . The purse strings should be in the hands of the people.\(^{42}\)

**Admission of New States**

Various delegates, and most prominently Gouverneur Morris, expressed fears that, in accordance with the principle of equality of representation in the Senate, the new states to be formed out of the western territories would gain power in the legislature out of all proportion to their wealth. Morris, therefore, recommended that the Atlantic States should be accorded a permanent advantage in representation so that the western states should not be able to overwhelm them.\(^{43}\) As he put it, "The rule of representation ought to be so fixed as to secure to the Atlantic States a prevalence in the National Councils. . . . If the Western people get the power into their hands they will ruin the Atlantic interests. The Back members are always most averse to the best measures."\(^{44}\) The suggestion outraged Mason's sense of egalitarianism.

Strong objections had been drawn from the danger to the Atlantic interests from new Western States. Ought we to sacrifice what we know to be right in itself, lest it should prove favorable to States which are not yet in existence. If the Western States are to be admitted into the Union as they arise, they must, he wd. repeat, be treated as equals, and subjected to no degrading discriminations. They will have the same pride & other passions which we have, and will either not unite with

Gouverneur Morris’s suggestion was rejected strongly:

Mason considered a representative body to be "as one of the most important... Legislatures have no power to arrest the Constitution."

"Whether these men have a voice or not, it remains that has not been given them. It was of great national importance, and to be cherished as the basis of our Union."

In some of the States they were established by an amendment from a source which was not within the power of the State to secure.

Mason’s colleagues agreed that the new States could not be admitted to the Union without a clear statement from any direct role in the matter. The resolution was defeated (3:7).\(^ {45}\)

Subsequently, a different

\(^{40}\) Ibid., p. 544.

\(^{41}\) Ibid., II, 224.

\(^{42}\) Ibid., pp. 273–74.

\(^{43}\) Ibid., I, 533–34, 583–84.

\(^{44}\) Ibid., pp. 533, 583.
or will speedily revolt from the Union, if they are not in all respects placed on an equal footing with their brethren. It has been said they will be poor, and unable to make equal contributions to the general Treasury. He did not know but that in time they would be both more numerous & more wealthy than their Atlantic brethren.\textsuperscript{44}

Gouverneur Morris’s suggestion (moved by Mr. Rutledge) to discriminate against the west and provide for representation to be proportionate to both population and wealth was roundly defeated.\textsuperscript{46}

\textit{Ratification of the Constitution by the States}

The Committee of the Whole House, in Resolution 19, recommended that the completed constitution be submitted to Assemblies “to be chosen by the people for the express purpose of ratifying it.”\textsuperscript{47} In discussion it was proposed by Ellsworth of Connecticut that this decision be revised to provide for ratification by the state legislatures.\textsuperscript{48} Mason was the first to react. He objected strongly:

Mason considered a reference of the plan to the authority of the people as one of the most important and essential of the Resolutions. The Legislatures have no power to ratify it. They are the mere creatures of the State Constitutions, and cannot be greater than their creators...

Whither then must we resort? To the people with whom all power remains that has not been given up in the Constitutions derived from them. It was of great moment he observed that this doctrine should be cherished as the basis of free Government.

In some of the States the Govts. were [not] derived from the clear & undisputed authority of the people. This was the case in Virginia. Some of the best & wisest citizens considered the Constitution as established by an assumed authority. A National Constitution derived from such a source would be exposed to the severest criticisms.\textsuperscript{49}

Mason’s colleagues agreed with him and the proposal to exclude the people from any direct role in the ratification of the Constitution was overwhelmingly defeated (3:7).\textsuperscript{50}

Subsequently, a different question arose in relation to the ratification

\textsuperscript{44} Ibid., pp. 578–79. See also p. 534.
\textsuperscript{46} Ibid., pp. 525, 534; cf. also pp. 575, 586.
\textsuperscript{47} Ibid., pp. 232, 237.
\textsuperscript{48} Ibid., II, 84–85, 88.
\textsuperscript{49} Ibid., pp. 88–89.
\textsuperscript{50} Ibid., pp. 84–85, 93.
procedure. How many state conventions would have to ratify before the Constitution could enter into force? Some delegates maintained that the unanimous consent of the states was necessary. Others suggested approval by a majority of states having a majority of the population. Still others advocated the consent of ten states. Mason intervened to urge preservation of "ideas familiar to the people. Nine States had been required in all great cases under the Confederation and that number was on that account preferable." His recommendation to adhere to "ideas familiar to the people" was overwhelmingly endorsed by the delegates (8:3).

Mason’s liberal convictions, of course, did not emerge for the first time in 1787 at Philadelphia. As noted earlier, Mason was the author (in 1776) of the Virginia Declaration of Rights which served as the forerunner of the various Bills of Rights which appeared in the state constitutions, and subsequently in the Federal Constitution. He condemned slavery (notwithstanding the fact that he was a Virginia plantation owner himself) and at the Constitutional Convention vigorously opposed the slave trade. His words ring with the moral tone of a preacher:

Every master of slaves is born a petty tyrant. They bring the judgment of heaven on a Country. As nations can not be rewarded or punished in the next world they must be in this. By an inevitable chain of causes & effects providence punishes national sins, by national calamities. He lamented that some of our Eastern brethren had from a lust of gain embarked in this nefarious traffic. As to the States being in possession of the Right to import, this was the case with many other rights, now to be properly given up. He held it essential in every point of view, that the Genl. Govt. should have power to prevent the increase of slavery.

Given Mason’s enlightened views, and in particular his support for democratic rights, two things remain to be explained. One is his refusal to sign the completed Constitution and the other, his outburst against popular election of the executive. With regard to his refusal to sign, the brief answer is that in his view the final product was insufficiently democratic. At the close of the proceedings Mason penned a series of “Objections to this Constitution of Government.” Fully equal to the “populist.” For one thing, it was “the laws of the “general” constitutions “the Declaration of independence.” There was no declaratory by jury in civil causes nor did it guarantee peace.” Congress was free to amend money (tax) bills are not the representatives by the Congress courts which tie the Senate to the Senate and appointments, coupled with existing body, almost continuous government and enable the judiciary to render the law “tedious, in legal oppress and ruin the poor.”

This government will be present impossible to it; so monarchy, or a corrupt the probably vibrate some one or the other.

Whatever else his objection Mason was not opposed to

51 See ibid., pp. 471-72, 475-77.
52 Ibid., pp. 472, 477.
53 Idem.
54 See Rutland, George Mason, pp. 49-61.
55 “As early as 1765 he had questioned the practice of slavery both for its economic principle and for its effect on the ‘morals and manners of our people.’” Ibid., p. 53.
56 Farrand, Records, II, 370.
of Government." 57 Fully eight of the fifteen objections could be labelled as " populist." For one thing, the Constitution contained no bill of rights; and since the laws of the "general government" are made paramount to the state constitutions "the Declaration of Rights in the separate States are no security." 58 There was no declaration "for preserving liberty of the press ... trial by jury in civil causes nor against the danger of standing armies in time of peace." Congress was free to create monopolies, "constitute new crimes [and] inflict unusual and severe punishments." Representation in the House of Representatives, even with one to thirty thousand population, rather than the forty thousand originally contemplated, offered only the "shadow" not the "substance" of representation. Such a legislature "can never ... inspire confidence in the people." Also, it was improper to grant the Senate power to amend money (tax) bills and originate appropriations of money since "they are not the representatives of the people or amenable to them." The close links which tie the Senate to the Executive in such matters as treaty making and appointments, coupled with the fact that the Senate will be "a constantly existing body, almost continually sitting, ... will destroy any balance in the government and enable them to accomplish what usurpations they please upon the rights and liberties of the people." The structure of the Federal Judiciary and the scope of its powers to prevail over state judiciaries will render the law "tedious, intricate and expensive" and enable "the rich to oppress and ruin the poor." In conclusion, declared Mason:

This government will set out [commence] a moderate aristocracy: it is at present impossible to foresee whether it will, in its operation, produce a monarchy, or a corrupt tyrannical [oppressive] aristocracy; it will most probably vibrate some years between the two, and then terminate in the one or the other. 59

Whatever else his objections reveal, they demonstrate most clearly that Mason was not opposed to the Constitution because it was excessively

57 Ibid., pp. 637–40.
58 At the last stages of the Convention Mason strove valiantly to have a bill of rights attached to the Constitution. His remarks on 12 September, five days before the signing ceremony, are reported as follows: "He wished the plan had been prefaced with a Bill of Rights, and would second a motion if made for the purpose—It would give great quiet to the people; and with the aid of the State declarations, a bill might be prepared in a few hours." Ibid., pp. 588–89. Gerry of Massachusetts took up Mason's suggestion and presented a formal proposal for a committee to prepare a Bill of Rights. The matter was dismissed out of hand by a vote of 0:10. Ibid., pp. 582, 588. No doubt, "the impatience which prevailed towards the close of business," noted subsequently by Madison, precluded serious consideration of the suggestion. Ibid., III, 136.
59 Ibid., II, 640 and see also ibid., p. 632.
democratic, but precisely because it was insufficiently responsive to the wishes of the people. Moreover, in his view, it lacked the safeguards which would preserve the liberties of the people. Since it could not protect them from an overbearing aristocracy, ultimately it would end up as a frightful tyranny. Mason’s refusal to sign the Constitution reflected his profound commitment to popular government and his belief, fortunately mistaken, that the 1787 Constitution was not the vehicle for providing such a government for the American people.

This stand makes Mason’s condemnation of popular elections for choosing the executive even more puzzling. His comment, that such elections would be the equivalent of a trial of colors for a blind man, would seem to suggest an utter lack of faith in democracy. If, however, Mason’s remarks are examined in their context, it becomes quite evident that Mason was not challenging the right of the people to choose but rather their ability to do so given the size of the electoral district within which they would have to exercise that right. The vast expanse of the United States, the difficulty of communication, and the unfamiliarity of the general populace with national personalities, all militated against an informed choice. In fact, as noted above, Mason had earlier in the debate expressed himself in favor of popular election but considered it “impracticable,” for the reasons, no doubt, which he subsequently enumerated by reference to “the extent of the Country.”

Republican government, or representative democracy, in the eyes of the generation of the Founding Fathers, as is well recognized, meant a system of government in which the people participate directly, or nearly directly, in the operation of the organs of government. Of necessity, therefore, popular participation, or representative democracy, was feasible only over a small area. The wider the expanse of territory the less acquainted the people would be with the merits or demerits of the respective candidates and the less capable they would be of making meaningful choices. Inevitably they would be prey to manipulators and schemers. It was in this sense that Mason found fault with nationwide elections of the executive. Essentially, his complaint was that under the circumstances, popular election of the executive would have the trappings of representative democracy but not the essence.

As Cecilia Kenyon has written: “The Anti-Federalist theory of representation was closely allied to the belief that republican government could operate only over a small area. . . . One of the basic fears of the Anti-Federalists [was]: loss of personal, direct contact with and knowledge of their representatives.”

The foregoing review allows us to elucidate Mason’s role at the Constitutional Convention. He campaigned vigorously on the side of a representative government. His stand posed no objection to any property test and was the opinion of a great many. The refusal to tolerate discrimination was confirmed by his fellow delegates and accepted by a majority of the states.

60 See text above at n. 9.
61 See text above at n. 5.
ists split was the question whether republican government could be extended to embrace a nation, or whether it must be limited to the comparatively small political and geographical units which the separate American states then constituted. The Anti-Federalists took the latter view.\textsuperscript{63} And on the indirect mode of electing an executive Kenyon writes:

This belief that larger electoral districts would inevitably be to the advantage of the well-to-do partially explains the almost complete lack of criticism of the indirect election of the Senate and the President. If the "middling" class could not be expected to compete successfully with the upper class in Congressional elections, still less could they do so in state-wide or nation-wide elections. It was a matter where size was of the essence. True representation... could be achieved only where electoral districts were small.\textsuperscript{64}

James Wilson, in the Pennsylvania Ratifying Convention, stressed this point in explaining why the Constitutional Convention had not instituted nationwide elections for the presidency. "If gentlemen object, that an eighth part of our country forms a district too large for elections, how much more would they object, if it was extended to the whole Union! On this subject it was the opinion of a great majority in Convention, that the thing was impracticable."\textsuperscript{65} No one in the anti-Federalist camp disputed Wilson's claim.

The foregoing review allows us to draw several conclusions about George Mason's role at the Constitutional Convention. Clearly, Mason was not a passive bystander at Philadelphia; his role was substantial and influential. He campaigned vigorously on behalf of his concepts of republican representative government. His stand on popular elections to the lower house, his objection to any property test for electors to that house, his insistence that only the popularly elected body be permitted to initiate money bills, and his refusal to tolerate discrimination against the nascent western states—all were confirmed by his fellow delegates. In each case Mason articulated the views accepted by a majority of the Convention. Notwithstanding his failure to sign

Representative Government," \textit{William and Mary Quarterly}, Third Series, vol. 12 (1955), pp. 10-11. Kenyon cites Mason at the Virginia Ratifying Convention to illustrate this concern. "To make representation real and actual, the number of representatives ought to be adequate; they ought to mix with the people, think as they think, feel as they feel,—ought to be perfectly amenable to them, and thoroughly acquainted with their interest and condition," \textit{Ibid.}, p. 10.

\textsuperscript{63} \textit{Ibid.}, p. 38.

\textsuperscript{64} \textit{Ibid.}, p. 13.

the completed document, Mason's contribution to the Convention clearly stamps him as a Founding Father of the Constitution.

In presenting his viewpoint Mason consistently espoused an enlightened liberal philosophy of government. As he stated, "the basis of free government" is the "doctrine" that "all power" "remains" with "the people" and constitutions can only be "derived from them." His remarks on representation reflected a strong sense of egalitarianism. Equality of representation meant equality regardless of personal wealth and regardless of geographic location, east or west. Mason's refusal to sign the completed constitution was but a reflection (at least in part) of his deeply held democratic convictions. Mason's belief in popular government also informed his concept of balanced government. Even if the doctrine of mixed government, which Mason, in common with so many other delegates, espoused, called for one part of the legislature to be reserved for the propertied minority, it did not mean that this aristocratic part should dominate. To the contrary—all steps were to be taken to restrict the influence of the aristocratic body and to ensure the responsiveness of the legislature to the wishes of the popular electorate, the sole source of ultimate authority. Mason's views have a remarkably modern, and even "populist," ring to them. Thus, it has justifiably been said of Mason: He "was an outstanding liberal of eighteenth century America [who] was far ahead of his time in his democratic social philosophy." 66 This same philosophy prompted Mason's criticism of the proposal to institute popular nationwide elections of the executive. Representation in Mason's view entailed intelligent and informed choice. Democracy could only function in a circumscribed area which allowed the populace to be aware of the merits or faults of the respective candidates. Broadening the electorate to a nationwide choice where no one could be expected to be acquainted with the record or stand of the candidates would distort, rather than fulfill, true democracy. In short, in Mason's view, democracy could not exist without information. Perhaps in this regard he was only anticipating the populist views of a later generation of political philosophers.