



UNITED STATES SENATE
**REPUBLICAN
POLICY COMMITTEE**

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Patriot, Teacher, Scholar, Husband

Remembering George Wythe On the 215th Anniversary Of the Constitutional Convention of 1787

“He is confessedly one of the most learned legal characters of the present age. . . . He is remarked for his exemplary life, and universally esteemed for his good principles. No man, it is said, understands the history of government better than Mr. Wythe, yet from his too favorable opinion of men, he is no great politician.”

Two-hundred fifteen years ago tomorrow, delegates from the American States met in Philadelphia and began framing the Constitution of the United States. George Wythe was among those illustrious patriots, and few were more distinguished — yet he was in the convention for only about ten days. He was called home by what he, himself, said was “the only” cause that “could have moved” him, the illness of his wife.² Elizabeth Taliaferro Wythe died in August 1787 “after a long and lingering sickness which she bore with the patience of a true Christian.”³ She was 47 years old, and had been married for more than 30 years.

Wythe had signed the Declaration of Independence and served for years in the Continental Congress, and before he left the Philadelphia convention he chaired the committee that gave the convention its rules — rules that were essential to the convention’s success. Wythe was the foremost jurist and parliamentarian of his day. A decade later when Thomas Jefferson was writing his *Manual of Parliamentary Practice* (which still serves the Senate and the House of Representatives), he sought the advice of his former professor at the College of William and Mary, George Wythe.⁴

Wythe’s achievements as a teacher and scholar may be without equal. One of his biographers summarized his legacy in these words:

“In nearly a decade as America’s first law professor, George Wythe had laid the foundation for legal education in America. His lecturing methods and his moot courts have come down in law school procedure to this day. His students would carry what they had learned in his classroom

into practical use in the courts, as well as in Congress and in the legislatures of this country for the next six decades. If a teacher is to be judged by the success of his pupils, then George Wythe must certainly be ranked as the greatest teacher this nation has ever produced. The names of Thomas Jefferson, James Monroe, John Marshall, and Henry Clay, alone, would earn for him that title, but the host of less well-remembered congressmen, senators, governors, attorneys general, and judges who also studied under Wythe makes it unquestionable. If, in addition, a good teacher is judged by the love and devotion his student felt for him, then Wythe reached heights never dreamed of by most teachers. As one author aptly put it, ‘all of the chancellor’s students entertained for him a veneration that was almost a religion.’⁵

One of Wythe’s students, John Marshall (who was to become the greatest chief justice who will ever live, for in *Marbury v. Madison* he established the constitutional supremacy of the Supreme Court), was in the courtroom in 1782 when Judge Wythe declared in *Commonwealth v. Caton* that a judge could declare an act of the legislature void if it was contrary to a constitution. Wythe is reported to have said in that opinion,

“If the whole legislature, an event to be deprecated, should attempt to over-leap the bounds, prescribed to them by the people, I, in administering the public justice of the country, will meet the united powers, at my seat in this tribunal; and pointing to the constitution, will say to them, *here is the limit of your authority; and hither shall you go, but no further.*”⁶

Wythe chaired the Committee of the Whole House in the Virginia ratifying convention, and he — perhaps more than his young colleagues Madison, Marshall, and Randolph — may have been most responsible for Virginia’s agreeing to the new Constitution. Wythe also chaired the committee that proposed additional amendments to the Constitution — which were to be considered by the new Congress *after the document was ratified*. His work on behalf of the Constitution and its first amendments give him a claim as “Father of the Bill of Rights,” an honorific often reserved for George Mason, an ardent opponent of the Constitution.⁷

George Wythe died in 1806 under mysterious circumstances. It is now generally believed that he was poisoned by his great-nephew. After Wythe’s death, Thomas Jefferson made notes for a biography of Wythe, a biography that unfortunately was never written. Jefferson said, “No man ever left behind him a character more venerated than George Wythe. His virtue was of the purest tint, his integrity inflexible, and his justice exact. . . . Such was George Wythe, the honor of his own, and model of future times.”⁸

Written by Lincoln Oliphant, 224-2946

Notes: ¹ III Farrand (ed), *The Records of the Federal Convention of 1787* (rev. ed. 1937) at 94 (William Pierce, a delegate from Georgia to the Philadelphia Convention, has given us classic descriptions of his fellow delegates, and the quoted text is an excerpt from his description of Wythe). ² *Id.* at 59-60; see also, Hutson’s *Supplement* at 80. ³ I. Brown, *American Aristides: A Biography of George Wythe* at 220 (1981) (quoting the death announcement from the *Virginia*

Gazette). ⁴ *Id.* at 280-83. ⁵ *Id.* at 224. ⁶ *Id.* at 248-49 (emphasis added). ⁷ *Id.*, chap. 12. ⁸
A. Dill, *George Wythe, Teacher of Liberty* at 101 n. 393 (1979).