

MARTIN, LUTHER (1748, probably Feb.- July 8, 1826), lawyer and attorney general of Maryland, was born near New Brunswick, Middlesex County, New Jersey, the third of nine children born to Benjamin Martin and his wife Hannah, farmers.

Martin received his early education from his parents. They sent him to the grammar school at the College of New Jersey (later Princeton University) when he was thirteen. Martin later entered the college proper, graduating in 1766 near the top of his class. After graduation, Martin served as schoolmaster at the Queen Anne's County Free School on Maryland's Eastern Shore for three years, during which time he began studying law.

In 1770, Martin quit teaching so he could study law for a year. He moved farther down the Eastern Shore to Somerset County, where he began reading law in the office of Samuel Wilson. Within a few weeks, Martin was asked to assume the duties of superintendent of the Onancock Grammar School in Accomack County on Virginia's Eastern Shore. Martin accepted the appointment, and taught at the Onancock school from the summer of 1770 until August 1771, when he decided he was ready to practice law.

Martin passed the examination for licensing as an attorney in Virginia in September 1771, and qualified before the bar of Accomack County later that same month. Following a six-month exploration of the western regions of Virginia, Maryland, and Pennsylvania, Martin in late 1772 moved back to Somerset County,

Maryland, and opened a legal practice on the Eastern Shore.

In debt when he left teaching, Martin claimed an annual income of about a thousand pounds within two years of beginning his legal practice. Much of his early practice was before Virginia courts, but Martin soon gained a reputation as an able and energetic attorney in Maryland as well.

In 1774, Somerset County patriots elected Martin to the county Committee of Observation and as one of the county's delegates to an extralegal convention called by Maryland's opponents of British imperial policies. Martin missed the first two of these conventions, but attended the third, held in Annapolis in December 1774.

Like much of the lower Eastern Shore, Somerset County had a large Loyalist population. Martin, however, was a firm opponent of British policies and an early supporter of the movement towards independence.

Maryland's first state constitution, adopted in November 1776, established the office of attorney general, with incumbents appointed by the governor and council. After their first two choices declined the honor, the governor and council accepted Martin's unsolicited offer to assume the post. He held this office from 1778 until 1805, and again from 1818 until 1822.

After his appointment as attorney general, Martin moved to Baltimore Town. There he became a member of the Baltimore Light Dragoons, "an elegant Corps consisting of 50 respectable gentlemen," who equipped themselves as a cavalry unit. Martin's war experience was limited to a few weeks during the summer of 1781 when the Baltimore Light Dragoons were ordered south to reinforce General Lafayette in the Virginia campaign against Lord Cornwallis.

In December 1783, Martin married Maria Cresap, daughter of Capt. Michael Cresap of Oldtown, on the western Maryland frontier. Martin and his wife had at least five children, including three daughters who reached adulthood.

After the war, Martin's private law practice became large and successful, and he quickly achieved the reputation as the leading member of the Maryland bar. Simultaneously serving as the state's first attorney general, he is credited with shaping the office and making it an importance part of state government.

The Maryland General Assembly elected Martin a delegate to Congress in 1784, but he did not attend. Three years later, the Assembly elected him one of Maryland's five delegates to the Philadelphia convention that had been called to revise the Articles of Confederation. In Philadelphia, Martin's extensive legal knowledge and his commitment to preserving a role for small states made him a leader among the delegates who opposed

## Madison's Virginia Plan.

Martin vigorously opposed the Virginia Plan advocated by the large states. The proportional representation it called for in both houses of the legislative branch would create, Martin argued, a "system of slavery, which bound [the small states] hand and foot." Martin helped frame and supported in the convention the small states' alternative, the New Jersey Plan. After the defeat of that plan, Martin made a learned and lengthy speech, stretching over two days, defending the sovereignty and independence of the individual states and denouncing the national government implicit in the Virginia Plan.

Later in the convention, Martin introduced what became the "supremacy clause," although he opposed the amended provision as it appeared in article 6 of the proposed Constitution. He argued against the need for inferior federal courts, saying that the federal Supreme Court would provide an adequate check on any errors and abuses the state courts might commit.

When the convention turned to the executive department, Martin sought to limit the president to a single term. He also proposed that the president be indirectly elected by electors, the method finally adopted by the convention

As the weeks passed, Martin became convinced that the constitution taking shape would create a strong national

government that would effectively abolish state governments and jeopardize individual rights. He prepared a bill of rights for the consideration of the convention, but never introduced it because he could find no one to support him. Martin left the convention before it ended, determined to fight ratification of the proposed constitution in Maryland.

Martin detailed his reasons for opposing the proposed Constitution in an exhaustive report delivered before the Maryland General Assembly in November 1787. These remarks were republished in newspapers and in pamphlet form under the title The Genuine Information. When Connecticut federalist and fellow convention delegate Oliver Ellsworth, writing under the pen name "The Landholder," published critical remarks about his performance in Philadelphia, especially the interminable length of his speeches, Martin seized the opportunity to respond. His answer to Ellsworth, followed by four more letters addressed to his fellow Marylanders, appeared in the newspapers in the critical weeks leading up to Maryland's vote for delegates to the state's ratification convention.

The danger of the proposed Constitution, in Martin's opinion, was that it would replace a federal system, in which the states protected the rights and liberties of their citizens, with a strong national government empowered to act directly on individuals. For Martin, liberty had the best chance of being preserved when government was strictly limited and directly

accountable to the electorate. The strong central government proposed by the Constitution violated these tenets and posed a clear danger to every American. In an impassioned plea to his fellow citizens of Maryland, Martin argued that "no greater powers out to be given than experience has shewn to be necessary, since it will be easy to delegate further power when time shall dictate the expediency or necessity; but powers once bestowed upon a government, should they be found ever so dangerous or destructive to freedom, cannot be resumed or wrested from government, but by another revolution.

Not only did the Constitution bestow too much power on the central government and its officers, but the people themselves were left dangerously exposed because of the lack of a bill of rights. Martin argued that a bill of rights to "diminish and lessen, to check and restrain" the federal government had to be added to the Constitution before it was ratified, because once the government was operational its supporters would never agree to limitations on their power. And finally, Martin urged his fellow citizens not to be rushed into ratifying a document that was fundamentally flawed, asking them to "reject the advice of political quacks, who under the pretence of healing the disorders of our present government, would urge you rashly to gulp down a constitution, which, in its present form, unaltered and unamended, would be as certain death to your liberty, as arsenick could be to your bodies."

Martin was one of only twelve antifederalists elected to Maryland's ratification convention, which met in Annapolis in late April 1788. Martin attended the convention, but a severe sore throat prevented him from participating in the debate. His fellow antifederalists argued in vain for the addition of a bill of rights to the proposed framework of government, and the convention approved the constitution on April 28, 1788, by a vote of 63 to 11.

Martin's opposition to the Constitution cost him politically. In 1791, James McHenry, responding to President Washington's request to suggest a candidate for appointment as the first federal district attorney for Maryland, noted that Martin was "the best qualified man in the state," but added that his extreme antifederalism made him "the last person who merits appointment."

Martin's antifederalism soon waned, however. Adoption of the federal Bill of Rights in 1791 removed many of his objections to the Constitution, and the way the federal government took shape under the administrations of Washington and Adams impressed him.

Martin had always championed republican government, and he saw the more democratic political philosophy championed by Thomas Jefferson as a threat to liberty. Jefferson's democracy, Martin claimed, would replace "true republicanism" with "mobocracy."

Martin's animosity towards Jefferson was both political and personal. In discussing the noble character of the American

Indian in his Notes on the State of Virginia (1785), Jefferson had referred to Michael Cresap, Martin's father-in-law, as "a man infamous for the many murders he had committed on these much-injured people." After Martin's wife died in 1796, he determined to honor Maria's memory by clearing her father's name. In a series of published letters, Martin challenged Jefferson to prove his claim that Michael Cresap had murdered Indians, and at the same time he gathered evidence that suggested Cresap was innocent of the charge. Jefferson tried but was unable to verify the statement in his book, but he refused to admit the error. Martin had to be satisfied with crowing that Jefferson's charge against his father-in-law had been "at best the ingenious fiction of some philosophic brain."

About 1800, Martin's alcoholism began to attract public notice. His problems with alcohol probably began after his wife's death in 1796. He was lonely, his legal practice was enormous and demanding, and he faced a serious problem with his youngest daughter, Eleonora. She was only fourteen, but she was in love with Robert Reynal Keene, Martin's law clerk. Martin forbade the courtship, but in 1802, Keene and Eleonora defied her father and eloped. Martin took his anger to the press, airing his grievances against Keene in letters which he then had reprinted in a pamphlet entitled Modern Gratitude (1802).

Jefferson's election as president in 1800 put Federalists, especially federal officeholders, on the defensive. While not



active in national politics, Martin nonetheless became a Federalist hero and a troublesome nemesis for Jefferson. Martin served as defense co-counsel at Supreme Court associate justice Samuel Chase's impeachment trial before the U.S. Senate in 1805. Martin's brilliant defense of Chase deterred Jefferson's efforts to reshape the federal judiciary by impeaching Federalist judges. Martin again thwarted Republican ambitions, and the personal wishes of Jefferson himself, when he successfully defended Aaron Burr at his treason trial in Richmond in 1807. Martin's presence on Burr's defence team so angered Jefferson that he suggested that Martin be criminally charged as part of the Burr conspiracy so as to "put down this unprincipled & impudent federal bulldog." Martin, however, had the last word, writing that Burr's acquittal proved "that in America there are lawyers who cannot be intimidated by fear of presidential vengeance, nor by the frenzy of a deceived, misguided people."

Martin's defense of Chase and Burr brought him national prominence, but it affected him little. He remained one of the most active attorneys in Maryland, annually handling dozens of cases in the county courts, before the state appellate court, and often before the U.S. Supreme Court as well.

Martin's reputation as a lawyer without peer was not based on his eloquence or elegance. One person who knew him well described Martin's voice as "thick and disagreeable, his language and pronunciation rude and uncouth." A fellow member of the Maryland

bar, U.S. Supreme Court chief justice Roger Brooke Taney remembered that Martin's clothes seemed to be a "compound of the fine and the coarse, and appeared never to have felt the brush. He wore ruffles at the wrists, richly edged with lace, although every other person had long before abandoned them, and these ruffles, conspicuously broad, were dabbled and soiled, and showed that they had not been changed for a day or more." Martin also increasingly appeared in court drunk, earning himself the appellation, "Lawyer Brandy Bottle." Despite his frailties and eccentricities, Martin remained a brilliant lawyer. Taney called him the greatest member of the Maryland bar of his day, adding that he was a "profound lawyer," who "never missed the strong points of his case." Another contemporary said Martin "possessed extraordinary powers" and that he had "the finest capacity for discrimination and analysis, the faculty which, perhaps more than any other, distinguishes the lawyer."

From 1813 to 1816, Martin served as chief judge of the Baltimore criminal court, all the while maintaining a large private law practice and continuing his appellate work before the state Court of Appeals. Reappointed attorney general of Maryland in 1818, Martin appeared before the U.S. Supreme Court in 1819 to argue the state's case in McCulloch v. Maryland. This landmark case testing the states' right to tax federally chartered banks proved to be Martin's last. Five months after the Court rendered its decision in McCulloch, Martin suffered a stroke that permanently impaired his mental capacities.

Martin lived seven years longer, described as being "mindless, helpless, and without family or support." He had earned vast sums during his long legal career, but through personal intemperance and generosity to friends was at the end reduced to poverty. In 1822, in gratitude for his long service to the state and in recognition of his preeminent position in the Maryland bar, the General Assembly passed an unprecedented resolution requiring every practicing lawyer in Maryland to pay five dollars annually toward his support. Less than a year after the resolution passed, Aaron Burr learned of Martin's plight and took him into his home in New York where he remained until his death in 1826.

Bibliography: The autobiographical fifth number of Modern Gratitude (1801) is the source for much of the information on Martin's early life and career. His arguments against the proposed U.S. Constitution are detailed in The Genuine Information (1787), reprinted in Max Farrand, ed., Records of the Federal Convention of 1787 (1911), vol. 3. The only full biography of Martin, Paul S. Clarkson and R. Samuel Jett, Luther Martin of Maryland (1970), is a fine volume full of detail. Some additional information, including a few corrections to items in the Clarkson and Jett volume, can be garnered from the biographies of Martin that appear in James McLachlan, Princetonians, 1748-1768: A Biographical Dictionary (1976) and

Edward C. Papenfuse, et al., Biographical Dictionary of the Maryland Legislature, 1635-1789 (1985).