

**ADDRESS
OF
MILLS E. GODWIN, JR.
GOVERNOR**

**TO THE
GENERAL ASSEMBLY
EXTRA SESSION
WEDNESDAY, FEBRUARY 26, 1969**



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Mr. Speaker, Mr. President, Members of the General Assembly, My Fellow Virginians:

I extend to each of you a warm welcome to your capitol, to the unique fellowship which is yours as members of the General Assembly of Virginia, and most of all to the inspiration of that higher purpose which service to this Commonwealth brings to all our lives.

Your presence recalls all too vividly that this will probably be the last full session during which I will be with you as Governor. I am reminded, not without some emotion, that most of my adulthood has been spent in public life, and that its most rewarding years have revolved around the legislative process.

I am grateful beyond measure that your tolerance and understanding have enabled so many fast friendships to survive my transition to the Governor's office.

No matter what life may yet have in store for me, I will treasure always the small part given me to play in the two momentous sessions of this administration, sessions during which you gave Virginia new means of fulfilling the promise of a richer life that now pervades the South, and brought to so many thousands of our people new hope that they might more fully share the blessings of their citizenship.

But your purpose now transcends even these accomplishments, and quite properly it is your own exclusive province. From this day until your work is done, you will hold in your hands and re-shape with your deliberations the Constitution of Virginia, the bulwark of self-government in this State, and the final refuge of her freedoms.

Entrusted to your care, and to yours alone, are the pages of this State's organic law, emblazoned with nearly two centuries of her history, and setting forth her long-cherished traditions and her fundamental beliefs.

But I suggest it is no less certain that however sacred we may hold it to be, the Constitution, by the very nature of its creation, is a political document. It evolves from people's lives and from the times in which they live.

Its words are written and re-written by the people's representatives, but they have no life, they have no force, until the people themselves give their consent. So keep this towering truth before you now, for you must recast those words into a foundation in law that is firm enough to serve Virginia through this final third of the twentieth century and perhaps beyond.

Before you adjourn, every difference of opinion must be resolved; every issue, however small, decided; every word and punctuation mark assigned its proper place; every major question divided and packaged for the final approval of the

voters. When you meet next year, you can accept or reject whole portions of your present handiwork, but you cannot change a single word. What you approve in 1970 will go to the people unchanged from the draft you produce here and now.

With this heavy task before you, it is my hope that you will concentrate your attention on the Constitution itself.

As a prelude to your work, you have had the opportunity to read and digest the monumental study provided you by the Commission on Constitutional Revision. It is the product of many months of scholarly research and discussion by men respected throughout Virginia, aided by an expert and dedicated staff. Together they have examined minutely our present Constitution, its antecedents in Virginia, its counterparts in other states and at the federal level, and a host of pertinent court decisions.

While it would be strange indeed if you agreed with all the Commission's findings, you will find the philosophy of its approach to be consistent, soundly reasoned, and profoundly documented.

The people of Virginia have consistently decreed that only their elected representatives shall lay hands on the Constitution when the time comes for revision, and yet I feel constrained to offer you some of my own convictions.

My preference, in which I am joined by the Commission's membership and by five living former Governors of Virginia, is to retain the provision that the chief executive of this State cannot succeed himself.

The Governor's allegiance is to all of the people, and not just to those who elected him. Unavoidably, there will be times when he must choose between the public and his own partisans. These decisions will be far easier if the next gubernatorial election is removed from his personal consideration.

I would further endorse the Commission's recommendation that the Governor be given authority to initiate the reorganization of State agencies, subject to the General Assembly's approval.

Virginia's chief executive now directs a service organization far larger and more complex than any non-governmental industry in the State. His authority should be commensurate with that responsibility.

Prudence would further dictate a firmly defined line of succession and an established procedure for dealing with executive disability, and I concur also in the Commission's recommendations on those subjects.

Most difficult of all the Governor's assigned duties is that of preparing a State budget and supervising expenditures from its appropriations.

I have spent countless hours in conference and in study, and many sleepless nights at this task, and gradually, reluctantly, but inevitably, I have been forced to a basic conclusion.

Unless there is available some further alternative to burdensome taxation, it may soon be impossible to meet the growing needs of Virginia's people on the one hand, and remain within anticipated revenues on the other.

In this very biennium, we have lumped together new taxes and old taxes. We have adjusted tax-paying dates to produce a one-time windfall. We have borrowed all that the Constitution will allow. And still we have fallen short of the requests from our State agencies by many millions of dollars.

Nor is this unprecedented. We have failed to meet similar requests in a succession of past biennia for a staggering cumulative total.

And still, new legions of young Virginians apply to our colleges and universities each year. Highway construction is chronically short of funds. Commitments to recreation, to clean air and pure water, and to the preservation of open space remain to be fulfilled.

Our cities cry out for relief from the great urban migration that threatens to engulf them. New federal programs continue to whet the appetites of our people. And we have not yet caught up with our sister states.

Clearly, Virginia needs enlarged authority to supplement taxation with borrowings for capital outlay.

If you provide such a means forthwith, it cannot be used until the biennium of 1972-74. If you wait, Virginia's obligation to future generations will increase, while this generation falls victim to our inertia.

The Commission has suggested a solution, and it has much to recommend it. In many ways, the safeguards it contains are more stringent than those we now have. The cumulative limit it would place upon all borrowings is not excessive. But there are three practical difficulties that I feel must be surmounted.

The first of these is the suggestion that the General Assembly be enabled to borrow minimum amounts without a public referendum. While I recognize the expediency of such a move, and while I have unbounded confidence in this body, I promised our people from one end of Virginia to the other last year, as did some of you, that I would do my utmost to retain the safeguard that general obligation bonds not secured by revenues be altogether subject to their vote.

Confident that such a promise would be kept, they went to the polls and authorized the present bond issue.

At the same time, there must be orderly financing of the State's capital outlay program. I believe we must count on the General Fund to finance normal growth and to replace worn and outmoded facilities. But catch-up construction and extraordinary new demands will inevitably require further borrowings.

This brings me to the second difficulty with the Commission's plan. The Commission's theory seems to be that only now and then would the General Assembly be faced with a demand for extra construction money and consequently authorize a referendum.

But a study of capital outlay projects already deferred and projections of future critical needs already in being forewarns that the practical result would be a referendum every biennium, with a capital outlay program dependent on the outcome. This would be unfair to the General Assembly and to the people of Virginia.

My third objection stems from the second. The Commission's plan will not provide enough capital outlay money soon enough to meet the pressures already generated by demonstrated needs, pressures sure to increase over the next several years.

I suggest that you explore the merits of sound alternatives. For example, instead of the Commission's two-year ten per cent limit, geared to General Fund revenues, with a referendum each biennium, there could be a limit of twenty-five per cent of the same base over any four-year period, with one or more referenda. If the maximum were not reached in any four-year period, the remainder could be added to the limit for the next four years.

On the basis of present revenue projections, the Commission's plan would make available, beginning in 1972-74, a total of approximately \$60,000,000 to

\$70,000,000 per biennium, with a referendum every two years. The plan I offer could provide between \$150,000,000 and \$175,000,000 over four years, with only one referendum.

Recognizing that there is a practical limit to capital outlay funds that can be prudently spent in any one biennium, actual construction could be spread over the full four years. Moneys remaining unspent or unused borrowing power could be carried over into the next capital outlay budget period.

Such a plan would retain the safeguard of a referendum for all unsecured and general obligation borrowings. It would allow time for public understanding between referenda. It would provide sufficient funds to make a real contribution towards meeting Virginia's capital outlay needs.

I take no exception to the Commission's plans to undergird appropriate revenue bonds with the full faith and credit of the Commonwealth. Together with the modification of unsecured borrowing provisions I have outlined, they should give Virginia a financial potential amply safeguarded and sufficiently flexible to carry her through many years to come.

No less than the State itself, our cities, counties, and towns are faced with demands that severely tax their revenues, and they are beset with the trends of our times that have finally spelled catastrophe elsewhere.

Virginia's relationships between the State and her localities and among localities themselves do not throw up the roadblocks so evident in other areas, but we cannot safely assume that the nation's sea of troubles will not wash across our borders.

The Commission has made a number of far-reaching recommendations in this field of local government. I will mention only some of them.

In its pioneer treatise, the Metropolitan Areas Study Commission advocated a Commission on Local Government as the final authority in certain areas of dispute between political subdivisions, which are now settled, if at all, only after prolonged controversy, or litigation, or both.

A year ago, you deferred action on this and related recommendations because of the constitutional questions involved. Now constitutional questions are your continuing order of business.

I recommend that the General Assembly be authorized, but not required, to establish a Commission on Local Government at such time as it may be needed, when its specific powers and duties also can be defined by legislation. The time indeed may soon come when the General Assembly will find in this device a sound and effective way in which to deal with the ever increasing and complex problems of both urban and rural communities.

The Commission on Constitutional Revision proposed to go a step further toward regional units of government than the service district, which you authorized in the Virginia Area Development Act of 1968. The service district is strictly a service agency, without the power to legislate, to tax, or to assess. It is the creature of the local governing bodies and the electorate that voted to have it created, and it can be abolished by them at any time.

The Commission proposed authority for a new type of regional government, which, with appropriate corollary actions by the General Assembly, might evolve from the service districts. The concept represents a bold approach to an old problem which I commend to you for careful study, not as a solution to any immediate question, but as a mechanism that could effectively promote wholesome intergovernmental relationships in the future.

Both the Commission on Local Government and the regional units of government, if authorized, would constitute a reserve for meeting the problems of the coming years, and neither would have any force or effect until further action was taken by the General Assembly.

The recommendations of the Commission cover other important questions, such as self-amendment of charters by cities; a higher population minimum for towns moving into city status; a new charter county, based on certain population prerequisites; and consolidation of school divisions, under certain conditions, by the State Board of Education.

I shall not attempt to pass judgment on the individual merit of these several recommendations. I will say that the further fragmentation of local government in Virginia cannot continue unabated without serious consequences. The number of existing governmental units in Virginia is not fully appreciated by all of our citizens. For example, in the six Metropolitan Statistical Areas in Virginia there are now 141 governmental units, including 12 cities, 11 counties, 22 towns, and 96 special districts. It appears obvious that some effort should be made now to arrest this trend before the additive layers of government become excessively burdensome in the complexity of administration and in cost.

In the area of consolidating school divisions, I offer this thought for your consideration. In the event a Commission on Local Government is created, certainly its chief concern would be in providing State leadership in an effort to strengthen local government. If this be true, it would not seem inappropriate to suggest that the decision to consolidate a school division be a joint action by the State Board of Education and the Commission on Local Government. In the absence of a Commission on Local Government, the Division of State Planning and Community Affairs could serve in an advisory capacity to the State Board of Education, for reviewing and commenting on any such proposals, before final decisions are made.

Crisis will not wait for constitutional amendment. Now is the time to take out fire insurance, in the form of proper advance authority.

In its meritorious enthusiasm for a full-scale state commitment to education, the Commission advocates major changes of direction, both in theory and in practice.

I hope it is unnecessary for me to say that I am in full accord with the Commission's purpose of providing high quality education. As a consequence, I am distressed that duty requires me to point out certain hazards.

If the sole responsibility were yours and mine, my reservations would fade away, but your actions here will be subject to review by courts which have served ample notice that it is possible to stretch drastically the boundaries of traditional judicial restraint and to overturn time-honored legal concepts.

In the present particular, the Commission would have the State guarantee, and I quote, "an educational program of high quality" throughout the Commonwealth, a laudable aim, I agree.

In the Commission's view, public school standards would be determined by the State Board of Education, subject to revision only by the General Assembly.

The definition of the term "high quality" is so subjective as to invite any citizen who disagreed with the State Board of Education or the General Assembly to bring suit. It poses the gloomy prospect of endless litigation, and very possibly endless expenditure of public funds to fulfill the courts' decrees.

Therefore, I would suggest that whatever your final disposition of this section, you exercise the utmost caution in drafting the revision.

The Commission also places squarely before you the ultimate question of public school finance. If a locality cannot, or will not, provide sufficient funds for public education, can the State itself escape the ultimate responsibility for doing so?

The framers of the Constitution before you left that question largely unanswered, yet we do not want to see any of our localities procrastinate until the State is forced to finance their total public school program.

Having hoisted these warnings, I would still point out that the education gap continues to widen between our better and our poorer schools. Our cities call for still more State aid, and many of our counties are approaching the limit of their own resources.

I think it is clear that some further steps must be taken if many of our Virginia school children are to have a real chance for a competitive education.

I recommend that you increase the membership of the State Board of Education from seven to nine members.

You indicated a willingness to do this in 1966 by initiating a Constitutional amendment, but action was deferred in 1968 in view of the establishment of the study commission.

No State board deals with more fundamental questions or places a heavier burden upon its individual members. Nor can we expect the future to lighten their load. Increasing the membership seems to me to be fully justified.

I recommend re-enactment of the Constitutional provision for tuition grants in accordance with the views expressed by the Commission.

By this means you can assure continued financial assistance to those children who were in no sense involved in the racial overtones the federal court recently read into the overall tuition grant program. Without re-enactment of the present constitutional provision, the retarded and physically handicapped would be innocent victims of the federal court decision.

I endorse the approaches the Commission has suggested in the field of higher education, authorizing loans to students in certain private colleges, and a State authority, without the use of State funds or State credit, to assist privately controlled institutions of higher learning in the construction of needed facilities.

In a state actively encouraging new people to accept her citizenship, and experiencing major migration within her own borders, fairness would seem to dictate a lesser residence requirement as a qualification to register and vote. I concur with the Commission's recommendations.

In addition to purging the Constitution of obsolete language relating to the franchise, the Commission also offered constructive recommendations for the permanent registration of voters and for establishing a common set of criteria applicable to apportionment of legislative and congressional seats. I also concur in its suggestion that the General Assembly be authorized to require as a prerequisite to voting the ability to read and write.

The Commission debated the question of lowering the voting age and after full study came to the conclusion there should be no change in the present age of 21, the same age requirement now prevailing in all but four of the fifty states and accepted as standard throughout Europe and the rest of the world. Retention of the present age would be no reflection whatever on our fine young people but, on the contrary, could serve as a further incentive for them to demonstrate

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the qualities of maturity and responsibility so essential to the enjoyment of the rights of full citizenship. My own judgment is that the present voting age ought to be retained.

So far as the timing and duration of your legislative sessions are concerned, I must confess to mixed views.

During my own last term in the State Senate, the press of legislative business had already restricted severely the proper consideration of potential legislation.

Since then, the demands upon you have continued to multiply your labors and divide the time you can devote to each one. Many of you have already expressed to me your preference for annual sessions.

If this is your decision, I strongly urge that you consider continuing appropriations to State agencies on a two-year basis.

Biennial budgeting has the obvious disadvantage of requiring revenue projections up to two and one-half years in advance of final expenditures, but these you can revise in your alternate sessions.

Outweighing this difficulty, in my judgment, biennial budgets encourage our State agencies to plan their finances far more wisely than would be possible if they had to spend several months each year in competition among themselves for available revenues.

Not for twenty years has a special session been called for budgetary matters. I assume that if annual legislative sessions are provided, the preponderance of matters for consideration may still be non-budgetary. And yet the General Assembly would have ample opportunity to review, update, and otherwise revise the budget for the second year of the biennium in the light of the more timely information on revenues and expenditures.

The Commission has proposed many other revisions, which I leave to you with this final reminder. In distilling a new version of the Constitution, its members have reduced the present document from approximately 35,000 words to about 18,000. As a result, much of our statutory law will have to be revised if the new constitution is approved by the General Assembly and the people in 1970. To sort out and prepare the necessary bills is an enormous task. In your own interest two years from now, the Attorney General suggests, and I concur, that you delegate at this session to the Virginia Code Commission, or some other legislative commission, this specific task, and empower it to employ necessary legal assistance.

I have offered you my convictions, drawn from more than twenty years of public service in Virginia, and tempered by the past three years in the office of Governor.

But more important is the spirit in which you approach the Constitution of Virginia.

No matter how devoutly you may wish that you could, no matter how hard you try, you cannot give the people of Virginia a Constitution perfect for all time.

No matter how lofty your purpose, you will have labored in vain if you look too far over the horizon for your inspiration, only to find that the people, when they come to vote at another time in another year, have their eyes fixed closer to the realities of the present.

Inevitably you have brought here your own convictions, your passion and your prejudice, just as have your predecessors through a long procession of similar efforts.

In Williamsburg in 1776, your counterparts of that day disagreed as fundamentally as ever this body has, but in the end, they submerged their fears, their suspicions, and their private interests in the greater purpose.

Subsequently, a stormy session of this General Assembly found George Mason, whose very words are now before you, and Patrick Henry, six times elected Governor of Virginia, fighting with all their strength against ratification of the federal Constitution.

Had they prevailed, and the strongest of those early states remained outside the Union, there might never have been a United States of America. Instead, Virginia gave away an empire in order that the Union might be formed.

Now you are the actors upon the stage and it is your turn. Now you must choose what is to be preserved from the old and what must be accepted from the new.

In the process, you will find ample opportunity to be statesmen, for there will be times when what serves your own constituents will not serve Virginia. And yet, more than at any time in forty years, you now speak for all the people of this State.

You will need political wisdom, but more importantly, you will need political courage, for what you do here cannot easily be undone.

The document before you has held Virginia steady through economic stress and social upheaval for two generations. Now you must build for at least two more, and surely they will see still greater change.

It is no longer a Virginia of magnolias and mint juleps that awaits your decision, but a Virginia at last coming into her own after nearly three-quarters of a century of wandering in the wilderness of Reconstruction and rebuilding, a Virginia now sought after by new industry and new citizens alike.

It is a Virginia demanding a new abundance of opportunity for every one of her citizens, and new guarantees of justice that are truly blind to every consideration save the rights and responsibilities of citizenship.

Many times these past three years you have broken precedent, sometimes resolutely, sometimes with reservation, but Virginia now blossoms as never before.

She will forever need the safeguards against extremes that the Constitution provides, but no less will be her need for a new reach to grasp the golden future that awaits her, and new strength to hold it fast for generations to come.

In this, the people of this Commonwealth will be your jury, but history alone will be your judge.