

Madison's Gift

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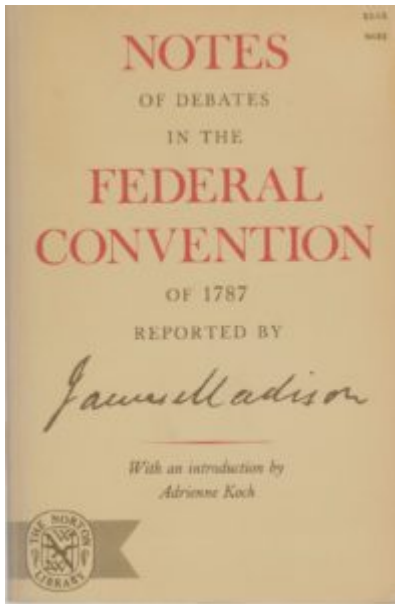
NOTES
OF DEBATES
IN THE
FEDERAL
CONVENTION
OF 1787

REPORTED BY

James Madison

*With an introduction by
Adrienne Koch*





James Madison, *Notes of Debates on the Federal Convention of 1787*. New York: W.W.Norton, 1987. vii-xxiii, 696 pp. \$21.95 paper.

From the time the first English colonists settled in the New World, they discussed what kinds of government they would establish and how these governments fit into the complex matrix that was the British Empire. Wary of the violations of rights in Europe, Americans enunciated their rights as Englishmen in scores of documents during the colonial era. Between 1761 and 1776 American colonists took part in an intensive public debate over government. Americans finally decided that their rights, as protected over the years by the British Constitution, could best be preserved outside of the empire.

As Americans declared their independence they simultaneously wrote new state constitutions and drafted and adopted a federal constitution—the Articles of Confederation. Relatively little is known about what took place in Congress and in provincial popular assemblies that wrote these new constitutions. But Americans were proud of their new constitutions, so much so that in 1781 and again in 1786 Congress ordered the publication of an anthology of the state constitutions that also included the Declaration of Independence, the Treaty of Peace of 1783, and the Articles of Confederation. Copies of this little book circulated throughout the United States and abroad. Americans and Europeans looked upon the United States as a laboratory of constitutional experimentation.

A decade after declaring their independence, a growing number of Americans became dissatisfied with their governments, both state and federal. After repeatedly failing to amend the Articles of Confederation or strengthen Congress with additional powers, a Constitutional Convention met in Philadelphia in 1787 to amend the Articles. Led by a small group of nationalists, the Convention drafted an entirely new constitution that

fundamentally altered the federal-state relationship by drastically increasing the power of the central government, reserving significant local powers for the states, and, at the same time, preserving and maybe even expanding the rights of individuals.

Thirty-six-year-old James Madison felt the need for Virginia—his home state, the Old Dominion—to take the lead in proposing a new constitution; and, for some inexplicable reason, Madison believed that he should be the agent to lead the Virginia delegation. More than any other delegate, Madison prepared himself for the intellectual and political rigors of the convention. He studied the history of ancient confederacies to see why they failed and he examined the vices of the American political system. The lack of information available about the origins of the ancient confederacies convinced Madison to “preserve as far as I could an exact account of what might pass in the Convention” (17). If the convention succeeded in drafting a new constitution and if that proposal were adopted by the American people, Madison felt that his record of what happened in the convention would allow future generations to understand “the objects, the opinions & the reasonings” that gave rise to the new Constitution (17). Madison, like many others of his generation, believed that Americans had the responsibility of constitution making not merely for themselves and their posterity but for all of mankind. His record of the Constitutional Convention would help future historians from all countries understand the philosophical and practical motivations of the delegates.

The Convention chose William Jackson as its secretary. Madison correctly sensed that Jackson would preserve only a skeletal record of the proceedings. Thus, with the tacit approval of the delegates, Madison separated himself from the Virginia delegation and sat instead in “a seat in front of the presiding member, with the other members on my right & left hands. In this favorable position for hearing all that passed, I noted . . . what was read from the Chair or spoken by the members” (17).

Madison was already an accomplished note taker of debates, having practiced and refined his skill in Congress. The scholarly Virginian had a knack for isolating the essentials of the argument while listing the supporting evidence given by each speaker. He explained that he “was not a little aided by practice & by a familiarity with the style and the train of observation & reasoning which characterized the principal speakers” (17-18). He never missed a day of the convention, nor at most “a casual fraction of an hour in any day, so that I could not have lost a single speech, unless a very short one” (18). He wrote his notes in full words, abbreviations, and symbols known only to him. Later each evening he expanded these rough notes. On occasion speakers gave him written copies of their speeches and, naturally, he had whatever written text he prepared for the more than two hundred times he spoke in the convention. The labor of taking notes, expanding them, and preparing himself as one of the most important participants in the debates, Madison said, nearly killed him.

Madison kept his notes with his papers until he died. He allowed only a handful

of individuals to see the manuscript. Sporadically he worked on the notes, especially after 1789 when he copied William Jackson's manuscript proceedings of the convention, which contained the exact wording of motions and resolutions as well as the votes on these measures. After examining all of the changes, the editors of the modern edition of Madison's papers maintain that the later additions made by Madison "were motivated by an earnest desire for completeness and accuracy" (Madison Papers, X, 9).

Madison always intended that his notes should be published, but he steadfastly felt that a posthumous publication would best serve the American public. Other accounts of the convention were published for partisan purposes—Luther Martin of Maryland published a lengthy account of the convention during the debate over ratifying the Constitution in 1788. During the presidential campaign of 1808, Edmund Genet (the former Citizen Genet of 1793) aided the candidacy of his father-in-law (Vice President George Clinton) by publishing an adulterated excerpt of Robert Yates's notes as a short pamphlet. Genet altered Yates's notes in an attempt to discredit Madison's presidential candidacy by showing that he had been an ardent nationalist during the convention. Although he publicly criticized the inaccuracy of Yates's notes, Madison refused to draw upon his own notes in his defense. In 1819, at the order of Congress, the convention's proceedings were published, followed two years later by the full set of Yates's altered notes.

On various occasions friends and correspondents encouraged Madison to publish his notes. In opposing Federalist policies in 1799, Vice President Thomas Jefferson urged the publication so "that the constitution will then receive a different explanation. Could those debates be ready to appear critically, their effect would be decisive. I beg of you to turn this subject in your mind. The arguments against it will be personal; those in favor of it moral" (Madison Papers, XVII, 210). Madison responded that the "idea of publishing the Debates of the Convention ought to be well weighed before the expediency of it, in a public as well as personal view be decided on" (Madison Papers, XVII, 219). Federalists, Madison worried, might be able to use some of his notes to their political advantage. To another correspondent, Madison disputed the value of his notes "[a]s a guide in expounding and applying the provisions of the Constitution . . . the legitimate meaning of the Instrument must be derived from the text itself; or if a key is to be sought elsewhere, it must be not in the opinions or intentions of the Body which planned & proposed the Constitution, but in the sense attached to it by the people in their respective State Conventions where it received all the authority which it possesses" (Farrand, IV, 447-48). To another correspondent, Madison warned that in an environment of compromise, some convention delegates suggested exaggerated proposals hoping, by give and take, to achieve more moderate ends (Farrand, IV, 449). A publication after the death of all the Framers "may be most delicate and most useful also . . . As no personal or party views can then be imputed, they will be read with less of personal or party feelings, and consequently, with whatever profit, may be promised by them" (Farrand, IV, 475).

James Madison died on June 26, 1836. In his will leaving his papers to his widow, Madison wrote that "it was not an unreasonable inference that a report of the proceedings and discussions . . . [of the convention] will be particularly gratifying to the people of the United States, and to all who take an interest in the progress of political science and the course of true liberty." In 1837 Dolley Madison sold her husband's papers to the Library of Congress and three years later a three-volume edition of his papers was published, more than half of which was made up of his notes of the Constitutional Convention. Since that original publication, numerous editions of his notes have been published. Max Farrand's 1913 three-volume edition of the *Records of the Federal Convention*, which included Jackson's proceedings and the notes of half a dozen of Madison's colleagues, became the standard source. In 1937, the sesquicentennial of the convention, Yale University Press reprinted Farrand's three volumes with a fourth volume that included various documents referring to the Constitutional Convention.

By 1965 all of the editions of Madison's notes were out of print. My predecessor, Leonard Rapport, the first associate editor of the *Documentary History of the Ratification of the Constitution*, suggested to the director of the Ohio University Press that a new edition of Madison's notes needed to be published. Adrienne Koch was selected as the editor and in 1966 Ohio University Press published this one-volume edition. W. W. Norton published a one-volume paperback edition of Koch's work in 1987, the bicentennial of the convention. In the same year, Yale published a new fourth-volume supplement to Farrand edited by James H. Hutson with new documents located since the 1937 edition.

Farrand's four-volume edition (with the 1987 supplement) is the definitive source for all of the records of the convention, but Koch's edition has remained the standard one-volume edition of Madison's notes of the convention. The text and footnotes in the Koch edition are taken from C. C. Tansill's edition, which was published as a U.S. House of Representatives document in 1927. Koch includes in her edition Madison's preface written after 1830. Koch also includes two indexes—a serviceable general index and a thorough index of the delegates to the Constitutional Convention.

Given the importance of the Constitution in our lives today, Madison's notes have become invaluable for an understanding of the original meaning of the Founders. It is remarkable to think that throughout the first fifty years of the republic under the Constitution, no one—not even Chief Justice John Marshall—had access to Madison's notes.

It would be hard to imagine any other historical work that has been so important as Madison's notes of the convention. It was a gift—a legacy left by Madison to his country. He could have used it to his or his party's advantage, but he didn't. He waited for a posthumous publication to avoid the charge of partisanship that would denigrate the importance of his notes as an impartial record of the convention. In 1823 Madison wrote,

It has been the misfortune of history that a personal knowledge and an impartial judgment of things, can rarely meet in the historian. The best history of our country therefore must be the fruit of contributions bequeathed by co-temporary actors and witnesses, to successors who will make an unbiased use of them. And if the abundance and authenticity of the materials which still exist in the private as well as in public repositories among us should descend to hands capable of doing justice to them, then American History may be expected to contain more truth, and lessons certainly not less valuable, than that of any Country or age whatever" (xxii).

Madison's notes have given us the raw material from "co-temporary actors and witnesses." More than any other source, Madison's notes of the debates have remained for over 160 years the standard authority for what happened in the Constitutional Convention. It has allowed historians to look back at the founding and see the genesis of our Constitution. It was an incredible gift.

Further Reading: See Max Farrand, ed., *The Records of the Federal Convention of 1787* (New Haven, 1911-); William T. Hutchinson and William M.E. Rachal, eds., *The Papers of James Madison*, 17 vols. (Chicago, c1962-91); John P. Kaminski, Merrill Jensen, and Gaspare J. Saladino, eds., *The Documentary History of the Ratification of the Constitution* (Madison, 1976-).

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