

James Madison to John G. Jackson, December 27, 1821. Transcription: The Writings of James Madison, ed. Gaillard Hunt. New York: G.P. Putnam's Sons, 1900-1910.

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TO JOHN G. JACKSON. MAD. MSS.

Montpr., Decr 27, 1821.

Dear Sir, —Your favor of the 9th came to hand a few days ago only; and the usages of the season, with some additional incidents have not allowed me time for more promptly acknowledging its friendly contents.

You were right in supposing that some arrangement of the Mass of papers accumulated through a long course of public life would require a tedious attention after my final return to a private station. I regret to say that concurring circumstances have essentially interfered with the execution of the task. Becoming every day more & more aware of the danger of a failure from delay, I have at length set about it in earnest; and shall continue the application as far as health and indispensable avocations will permit.

With respect to that portion of the Mass which contains the voluminous proceedings of the Convention, it has always been my intention that they should, some day or other, see the light. But I have always felt at the same time the delicacy attending such a use of them; especially at an early season. In general I have leaned to the expediency of letting the publication be a posthumous one. The result of my latest reflections on the subject, I cannot more conveniently explain, than by the inclosed extract from a letter¹ *confidentially*

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written since the appearance of the proceedings of the Convention as taken from the notes of Chf. Justc. Yates.

1 Madison's note says: "See letter of 15th September, 1821, to Thomas Ritchie." It is as follows:

(*Confidential*)

Dear Sir.—I have recd. yours of the 8th instant on the subject of the proceedings of the Convention of 1787.

It is true as the Public has been led to understand, that I possess materials for a pretty ample view of what passed in that Assembly. It is true also that it has not been my intention that they should forever remain under the veil of secrecy. Of the time when it might be not improper for them to see the light, I had formed no particular determination. In general it had appeared to me that it might be best to let the work be a posthumous one, or at least that its publication should be delayed till the Constitution should be well settled by practice, & till a knowledge of the controversial part of the proceedings of its framers could be turned to no improper account. Delicacy also seemed to require some respect to the rule by which the Convention "prohibited a promulgation without leave of what was spoken in it," so long as the policy of that rule could be regarded as in any degree unexpired. As a guide in expounding and applying the provisions of the Constitution, the debates and incidental decisions of the Convention can have no authoritative character. However desirable it be that they should be preserved as a gratification to the laudable curiosity felt by every people to trace the origin and progress of their political Institutions, & as a source perhaps of some lights on the Science of Govt. 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 recd. all the Authority which it possesses.

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Such being the course of my reflections I have suffered a concurrence & continuance of particular inconveniences for the time past, to prevent me from giving to my notes the fair & full preparation due to the subject of them. Of late, being aware of the growing hazards of postponement, I have taken the incipient steps for executing the task; and the expediency of not risking an ultimate failure is suggested by the Albany Publication, from the notes of a N. York member of the Convention. I have not seen more of the volume than has been extracted into the Newspapers. But it may be inferred from these samples, that it is not only a very mutilated but a very erroneous edition of the matter to which it relates. There must be an entire omission also of the proceedings of the latter period of the session from which Mr. Yates & Mr. Lansing withdrew in the temper manifested by their report to their constituents; the period during which the variant & variable opinions, converged & centered in the modifications seen in the final act of the Body.

It is my purpose now to devote a portion of my time to an exact digest of the voluminous materials in my hands. How long a time it will require, under the interruptions & avocations which are probable, I cannot easily conjecture; not a little will be necessary for the mere labour of making fair transcripts. By the time I get the whole into a due form for preservation, I shall be better able to decide on the question of publication. As to the particular place or Press, shd. this be the result, I have not as must be presumed, turned a thought to either. Nor can I say more now than that your letter will be kept in recollection, & that should any other arrangement prevail over its object, it will not proceed from any want of confidence esteem or friendly dispositions; of all which I tender you sincere assurances.
— *Mad. MSS.*

Of this work I have not yet seen a copy. From the scraps thrown into the Newspapers I cannot doubt that the prejudices of the author guided his pen, and that he has committed egregious errors at least, in relation to others as well as myself.

That most of us carried into the Convention a profound impression produced by the experienced inadequacy of the old Confederation, and by the monitory examples of

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all similar ones ancient & modern, as to the necessity of binding the States together by a strong Constitution, is certain. The necessity of such a Constitution was enforced by the gross and disreputable inequalities which had been prominent in the internal administrations of most of the States. Nor was the recent & alarming insurrection headed by Shays, in Massachusetts without a very sensible effect on the pub. mind. Such indeed

was the aspect of things that in the eyes of all the best friends of liberty a crisis had arrived which was to decide whether the Amn. Experiment was to be a blessing to the world, or to blast forever the hopes which the republican cause had inspired; and what is not to be overlooked the disposition to give to a new system all the vigour consistent with Republican principles, was not a little stimulated by a backwardness in some quarters towards a Convention for the purpose, which was ascribed to a secret dislike to popular Govt. and a hope that delay would bring it more into disgrace, and pave the way for a form of Govt. more congenial with Monarchical or Aristocratical Predilections.

This view of the crisis made it natural for many in the Convention to lean more than was perhaps in strictness warranted by a proper distinction between causes temporary as some of them doubtless were, and causes permanently inherent in popular frames of Govt. It is true also, as has been sometimes suggested that in the course of discussions in the Convention, where so much depended on compromise, the patrons of different opinions often set out on negotiating grounds more remote from each other, than the real opinions of either were from the point at which they finally met.

For myself, having from the first moment of maturing a political opinion down to the present one, never ceased to be a votary of the principle of self Govt., I was among those most anxious to rescue it from the danger which seemed to threaten it; and with that view was willing to give to a Govt. resting on that foundation, as much energy as would insure the requisite stability and efficacy. It is possible that in some instances this consideration may have been allowed a weight greater than subsequent reflection within the Convention, or the actual operation of the Govt. would sanction. It may be remarked

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also that it sometimes happened that opinions as to a particular modification or a particular power of the Govt. had a conditional reference to others which combined therewith would vary the character of the whole.

But whatever might have been the opinions entertained in forming the Constitution, it was the duty of all to support it in its true meaning as understood *by the nation* at the time of its ratification. No one felt this obligation more than I have done; and there are few perhaps whose ultimate & deliberate opinions on the merits of the Constitution accord in a greater degree with that Obligation.

The departures from the true & fair construction of the instrument have always given me pain, and always experienced my opposition when called for. The attempts in the outset of the Govt. to defeat those safe, if not necessary, & those politic if not obligatory amendments introduced in conformity to the known desires of the Body of the people, & to the pledges of many, particularly myself when vindicating & recommending the Constitution, was an occurrence not a little ominous. And it was soon followed by indications of political tenets, and by rules, or rather the abandonment of all rules of expounding it, wch. were capable of transforming it into something very different from its legitimate character as the offspring of the National Will. I wish I could say that constructive innovations had altogether ceased.

Whether the Constitution, as it has divided the powers of Govt. between the States in their separate & in their united Capacities, tends to an oppressive aggrandizement of the Genl. Govt. or to an Anarchical Independence of the State Govts. is a problem which time alone can absolutely determine. It is much to be wished that the division as it exists, or may be made with the regular sanction of the people, may effectually guard agst. both extremes; for it cannot be doubted that an accumulation of all Power in the Genl. Govt. wd. as naturally lead to a dangerous accumulation in the Executive hands, as that the resumption of all power by the several States wd. end in the calamities incident to contiguous & rival

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Sovereigns; to say nothing of its effect in lessening the security for sound principles of administration within each of them.

There have been epochs when the Genl. Govt. was evidently drawing a disproportion of power into its vortex. There have been others when States threatened to do the same. At the present moment it wd. seem that both are aiming at encroachments, each on the other. One thing however is certain, that in the present condition and temper of the Community, the Genl. Govt. cannot long succeed in encroachments contravening the will of a Majority of the States, and of the people. Its responsibility to these wd., as was proved on a conspicuous occasion, quickly arrest its career. If, at this time, the powers of the Genl. Govt. be carried to unconstitutional lengths, it will be the result of a majority of the States & of the people, actuated by some impetuous feeling, or some real or supposed interest, overruling the minority, and not of successful attempts by the Genl. Govt. to overpower both.

In estimating the greater tendency in the political System of the Union to a subversion, or to a separation of the States composing it, there are some considerations to be taken into the account which have been little Adverted to by the most oracular Authors on the Science of Govt. and which are but imperfectly developed as yet by our own experience. Such are the size of the States, the number of them, the territorial extent of the whole, and the degree of external danger. Each of these, I am persuaded, will be found to contribute its impulse to the practical direction which our great Political Machine is to take.

We learn, for the first time, the second loss sustained by your parental affection. You will not doubt the sincerity with which we partake the grief produced by both. I wish we could offer better consolations, than the condoling expressions of it. These must be derived from other sources. Afflictions of every kind are the onerous conditions charged on the tenure of life; and it is a silencing if not a satisfactory vindication of the ways of Heaven to man that there are but few who do not prefer an acquiescence in them to a surrender of the tenure itself.

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We have had for a great part of the last & present years, much sickness in our own family, and among the black members of it not a little mortality. Mrs. Madison & Payne [Todd] were so fortunate as to escape altogether. I was one of the last attacked & that not dangerously. The disease was a typhoid fever, at present we are all well & unite in every good wish to Mrs. J & yourself & to Mary, & the rest of your family.