

SECRECY
AND THE
CONSTITUTIONAL
CONVENTION

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American Constitution*

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LESS THAN FOUR YEARS AFTER THE END OF THE American Revolution, delegates from the thirteen newly independent states assembled in Convention in the Pennsylvania statehouse in Philadelphia to revise the Articles of Confederation, the first federal constitution. As one of their first acts, the delegates adopted rules, three of which invoked secrecy on themselves—“that no copy be taken of any entry on the journal during the sitting of the House without the leave of the House, that members only be permitted to inspect the journal, and that nothing spoken in the House be printed, or otherwise published, or communicated without leave.” During their four months’ session, delegates met behind closed doors and sealed windows with armed sentinels stationed both inside and outside of the statehouse. On the last day of the Convention, after the Constitution was approved and signed, the Convention ordered that the “Injunction of secrecy [be] taken off.”¹ The Convention’s secrecy provoked only mild criticism while the Convention sat, but it became a controversial issue during the year-long debate over the ratification of the Convention’s proposed Constitution.

There are several reasons for the secrecy. First, there was nothing extraordinary about the secrecy of the Convention sessions—it was standard procedure for legislative bodies to meet in secret. In England, Parliament had, since 1688, allowed free speech in its debates which were held in secret, at least partly to keep out spies of the king. In 1770 both houses of Parliament reasserted the

1. Max Farrand, ed., *The Records of the Federal Convention of 1787* (3 vols., New Haven, Conn., 1911), I, 15; II, 650.

exclusion of “strangers” from their proceedings, but the following year the House of Commons reluctantly agreed to allow some of its debates to be published. The Continental and Confederation Congresses met in secret. They did, however, require that their journals be published regularly. Some of the colonial and state legislatures allowed the public to attend their legislative sessions—more often in the assemblies and less frequently so in the senates or councils. In Massachusetts, the proceedings of the colonial legislature were published since 1685. Debates were closed to the public in Pennsylvania until at least 1767. In 1770 the public was allowed admittance. In July 1776 the Pennsylvania constitutional convention resolved that its debates be published weekly in both English and German. Pennsylvania’s new constitution provided that the assembly “shall be and remain open for the admission of all persons who behave decently, except only when the welfare of this state may require the doors to be shut.” The assembly was required to publish its votes and proceedings twice a week while in session. The New York constitution of 1777 required the doors of both legislative houses “be kept open to all persons except when the welfare of the State” required secrecy. Most of the provincial conventions that drafted state constitutions, however, voted to keep their proceedings secret. These debates were sometimes printed in newspapers or as separate pamphlets, with the usual disclaimers by politicians that they had been misquoted. The legislative debates over the call of state ratifying conventions were particularly popular.

Several participants and observers believed that it was entirely appropriate for the Constitutional Convention to meet in secret. As the Convention sat, George Mason of Virginia wrote to his son that “All communications of the proceedings are forbidden during the sitting of the Convention; this I think was a necessary precaution to prevent misrepresentations or mistakes; there being a mate-

rial difference between the appearance of a subject in its first crude and undigested shape, and after it shall have been properly matured and arranged.”² Nathan Dane, a Massachusetts delegate to Congress then sitting in New York City, wrote to his fellow congressman from Massachusetts, Rufus King, who was then serving as a delegate to the Constitutional Convention in Philadelphia, that “I fully agree to the propriety of the Convention order restraining its members from communicating its doings, tho’ I feel a strong desire and curiosity to know how it proceeds. I think the public never ought to see anything but the final report of the Convention—the digested result only, of their deliberations and enquiries.”³ Edmund Pendleton, the chancellor of Virginia, felt that the Convention’s secrecy “was not only beneficial in that it occasioned the Ebulations of Fire, Fancy & Party amongst the Members to evaporate in the room of their Session, and their work to be submitted to the Public in its perfect State, but it also prevented . . . pre-determined Gentlemen, from making mangled details of the work, and by misrepresentation to Form a prejudice against it amongst the Citizens.”⁴

North Carolina Convention delegate Alexander Martin apologized to his state’s governor for not writing earlier with a full description of what was happening in Philadelphia. Martin explained that the Convention delegates “are under an Injunction of Secrecy till their Deliberations are moulded firm for the public Eye. . . . This Caution was thought prudent, least unfavourable Representations might be made by imprudent printers of the many crude matters & things daily uttered & produced in this Body, which are unavoidable, & which in their unfinished state might

2. Mason to George Mason, Jr., Philadelphia, 1 June 1787, Farrand, III, 33.

3. Dane to King, New York, 19 June 1787, Farrand, III, 48.

4. Pendleton to James Madison, Edmundsbury, Va., 12 August 1787, John P. Kaminski and Gaspare J. Saladino, eds., *The Documentary History of the Ratification of the Constitution*, Volume X, *Virginia*, Vol. 3 (Madison, Wis., 1993), 1769–70.

make an undue impression on the too credulous and unthinking Mobility.”⁵

James Madison, who probably had the best sense of what the Convention was doing because of his exhaustive preparation before its sessions and because of his extensive note-taking during the Convention debates, faithfully adhered to the secrecy rule. Painfully he withheld all information from even his closest friends. To Thomas Jefferson, Madison explained that “It was thought expedient in order to secure unbiassed discussion within doors, and to prevent misconceptions & misconstructions without, to establish some rules of caution which will for no short time restrain even a confidential communication of our proceedings.”⁶ To James Monroe, Madison reasoned that “the rule was a prudent one not only as it will effectually secure the requisite freedom of discussion, but as it will save both the Convention and the Community from a thousand erroneous and perhaps mischievous reports.”⁷ Madison promised Jefferson, however, “as soon as I am at liberty, I will endeavor to make amends for my silence.”⁸

Madison’s cousin, the Reverend James Madison, president of the College of William and Mary, complained about the blackout. “If you cannot tell us what you are doing, you might at least give us some Information of what you are not doing. This would afford a Clue for political Conjecture, and perhaps be sufficient to satisfy present Impatience.”⁹ Others were more patient and understanding. Edward Carrington, a Virginia delegate to Congress, told Madison that “My curiosity is, however, perfectly suppressed by

5. Martin to Governor Richard Caswell, Philadelphia, 27 July 1787, Farrand, III, 64.

6. Madison to Jefferson, Philadelphia, 6 June 1787, Robert A. Rutland and Charles F. Hobson, eds., *The Papers of James Madison* (Chicago, 1977), X, 29.

7. Madison to Monroe, Philadelphia, 10 June 1787, *ibid.*, 43.

8. Madison to Jefferson, Philadelphia, 18 July 1787, *ibid.*, 105.

9. The Reverend James Madison to James Madison, Williamsburg, 1 August 1787, *ibid.*, 120–21.

the propriety of the prohibition. Having matured your opinions and given them a collected form, they will be fairly presented to the public, and find their own advocates—but caught by detachments, and while indeed immature, they would be equally the victims of ignorance and misrepresentation.”¹⁰

Late in life, Madison explained the Constitutional Convention’s rationale for adopting the rule of secrecy.

It was . . . best for the convention for forming the Constitution to sit with closed doors, because opinions were so various and at first so crude that it was necessary they should be long debated before any uniform system of opinion could be formed. Meantime the minds of the members were changing, and much was to be gained by a yielding and accommodating spirit. Had the members committed themselves publicly at first, they would have afterwards supposed consistency required them to maintain their ground, whereas by secret discussion no man felt himself obliged to retain his opinions any longer than he was satisfied of their propriety and truth, and was open to the force of argument.

Madison believed that “no Constitution would ever have been adopted by the convention if the debates had been public.”¹¹

Some delegates even believed that the secrecy provision should remain in force after the adjournment of the Convention. On the last day of the Convention, Rufus King suggested that the journals “be either destroyed or deposited in the custody of the President.” If the journals were made public, he thought “a bad use would be made of them by those who would wish to prevent the adoption of the Constitution.” James Wilson of Pennsylvania “preferred the

10. Carrington to Madison, New York, 13 June 1787, *ibid.*, 52.

11. Farrand, III, 479, quoted from H. B. Adams, *Life and Writings of Jared Sparks*, I, 560–64. Sparks had taken notes from a meeting he had with Madison.

second expedient. He had at one time liked the first best; but as false suggestions may be propagated it should not be made impossible to contradict them.” The Convention then voted to deposit the journal and other papers with the president. Washington, in turn, asked what the Convention intended should be done with these records—should he have copies of the journals made for all of the delegates? The Convention resolved without disagreement that Washington should retain the journal and other papers “subject to the order of Congress, if ever formed under the Constitution.”¹²

During the debates in the New York ratifying convention on 28 June 1788, John Lansing, Jr., accused Alexander Hamilton of duplicity. In the Poughkeepsie convention, Hamilton stressed the importance of the states under the new Constitution, but, according to Lansing, Hamilton had argued in the Constitutional Convention for the near annihilation of the states, retaining them only as they might be useful to the central government. Hamilton denied the charge and denounced the use of the secret debates. The intensity of the dispute almost led to a duel.¹³

In 1792, Hamilton again defended himself against charges made by political opponents arguing

that the deliberations of the convention which were carried on in private [i.e., in secret], were to *remain unmolested*. And every prudent man must be convinced of the propriety of the one and the other. Had the deliberations been open while going on, the clamours of faction would have prevented any satisfactory result. Had they *been afterwards disclosed*,

12. Farrand, II, 648.

13. See the end of the debates on 28 June 1788, John P. Kaminski et al., eds., *The Documentary History of the Ratification of the Constitution*, Volume XXI, *New York*, Vol. 3 (Madison, Wis., 2005).

much food would have been afforded to inflammatory declamation. Propositions, made without due reflections, and perhaps abandoned by the proposers themselves on more mature reflection, would have been handles for a profusion of ill-natured accusations.¹⁴

James Madison, in a February 1791 debate in the first federal Congress over chartering a national bank, referred to the intention of the Constitutional Convention against such incorporations. Former Convention delegate Elbridge Gerry of Massachusetts (also serving in the first federal Congress) criticized Madison for using his memory of the debates in the Constitutional Convention as authority for subsequent political guidance. Madison agreed with Gerry that it was probably best not to divulge the proceedings of the Convention. Five years later in 1796, Madison criticized President Washington for citing the Convention’s journal in one of his messages to Congress in justifying his interpretation of the Constitution’s provision for negotiating and ratifying treaties.¹⁵

Thomas Jefferson, serving in Paris as U.S. Minister to France when the Constitutional Convention met, was not pleased with the secrecy. Jefferson wrote to the U.S. Minister to Great Britain John Adams, saying that he “was sorry they began their deliberations by so abominable a precedent as that of tying up the tongues of their members. Nothing can justify this example but the innocence of their intentions, & ignorance of the value of public discussions.” Jefferson felt confident “that all their other measures will be good & wise. It is really an assembly of demigods.”¹⁶ Maryland state attorney general Luther Martin, a delegate to the Convention,

14. Farrand, III, 368, quoted from J.C. Hamilton, *History of the Republic of the United States*, III, 256, 339–40.

15. Farrand, III, 362–63, 372.

16. Jefferson to Adams, Paris, 30 August 1787, Farrand, III, 76.

also lamented that the secrecy rule deprived the delegates of the “opportunity of gaining information by a Correspondence with others.” He satirically commented that he “had no idea that all the wisdom, integrity, and virtue” of the states “were centered in the convention. I wished to have corresponded freely and confidentially with eminent political characters in my own and other States; not implicitly to be dictated to by them, but to give their sentiments due weight and consideration.” Martin was also upset that the delegates themselves “were prohibited” from having copies of the resolutions already approved when the Convention recessed for ten days in late July and early August to allow the Committee of Detail to organize these resolutions into a draft constitution.¹⁷

Despite the Convention’s rule, several delegates violated the secrecy requirement and Philadelphia newspapers regularly reported bits and pieces of information about the Convention. After Georgia delegate William Pierce left the Convention and attended Congress, believing that he was released from the secrecy rule, he told several fellow congressmen what was occurring in the Convention. Two of New York’s delegates left the Convention on 10 July, and, believing that the secrecy rule no longer applied to delegates who did not expect to return to Philadelphia, told New York Governor George Clinton the bad news that a radically different Constitution was being formulated behind the closed doors in Philadelphia.¹⁸ Delegate Nicholas Gilman of New Hampshire, who arrived in the Convention two months late on 23 July, reported that “As secrecy is not otherwise enjoined than as prudence may dictate to each individual,” he had written his brother “(for the sat-

17. Luther Martin’s speech before the Maryland House of Representatives, 29 November 1787, Farrand, III, 151; Luther Martin’s “Genuine Information,” Baltimore *Maryland Gazette*, 28 December 1787, Farrand, III, 173, 191.

18. Robert Yates to Abraham Yates, Jr., Philadelphia, 1 June 1787, James H. Hutson, ed., *Supplement to Max Farrand’s The Records of the Federal Convention of 1787* (New Haven, Conn, 1987), 41–42.

isfaction of two or three who will not make it public) a hint” of the “general principles of the plan of national Government.”¹⁹ Massachusetts Convention delegate Nathaniel Gorham wrote Nathan Dane in Congress, saying that “Mr. King tells me that he in confidence gave you some account of what we are about,”²⁰ while North Carolina delegate William Blount conveyed information back home to his brother.²¹

George Washington, president of the Convention, stressed the importance of secrecy. One morning in June Pennsylvania delegate Thomas Mifflin spotted a copy of the Virginia plan, which the Convention had allowed delegates to copy, on the floor outside of the meeting room. He turned the errant document over to Washington, who placed it in his pocket and said nothing until the delegates were ready to adjourn for the day. Before putting the question on adjournment, Washington stood and sternly addressed the delegates.

Gentlemen, I am sorry to find that some one Member of this Body, has been so neglectful of the secrets of the Convention as to drop in the State House a copy of their proceedings, which by accident was picked up and delivered to me this Morning. I must entreat Gentlemen to be more careful, lest our transactions get into the News Papers, and disturb the public repose by premature speculations. I know not whose Paper it is, but there it is (throwing it down on the table), let him who owns it take it.

19. Gilman to Joseph Gilman, Philadelphia, 31 July 1787, John P. Kaminski and Gaspare J. Saladino, eds., *The Documentary History of the Ratification of the Constitution*, Volume XIII, *Commentaries on the Constitution*, Vol. 1 (Madison, Wis., 1981), 120.

20. Gorham to Dane, Philadelphia, 20 August 1787, John Wingate Thornton Collection, New England Historical Genealogical Society.

21. Blount to John Gray Blount, New York, 15 June, 19 July 1787, Hutson, 76, 175.

At the same time, Washington “bowed, picked up his Hat, and quitted the room with a dignity so severe that every Person seemed alarmed.” All the delegates nervously fumbled through their papers, each hoping to find his copy of the Virginia plan. William Pierce of Georgia, who preserved this story in his notes, could not find his copy of the document. Sheepishly he and other delegates approached the President’s table to glimpse at the paper. Relieved at not recognizing the handwriting, Pierce rushed to his lodgings at the Indian Queen boardinghouse and found his copy in another coat. No one, according to Pierce, claimed the lost document.²²

Throughout the spring and summer of 1787, Philadelphia newspapers reported on the Convention. Professor John K. Alexander, drawing heavily from the work of *The Documentary History of the Ratification of the Constitution*, has written a masterful book documenting *The Selling of the Constitutional Convention* (Madison, Wis., 1990). While the Convention sat, newspapers throughout the country, normally eager for information, accepted “the profound secrecy” of the Convention “as a happy omen; as it demonstrates that the spirit of party, on any great and essential point, cannot have arisen to any height.”²³ James Madison told Jefferson that he did not know of “any discontent . . . at the concealment.”²⁴ Secrecy, however, did raise some uncertainty. Madison reported that “The public mind is very impatient for the event, and various reports are circulating which tend to inflame curiosity.”²⁵ One Philadelphia newspaper reported that

Such circumspection and secrecy mark the proceedings of the federal convention that the members find it difficult to acquire the habit of communication even among themselves, and are so cautious in

22. Farrand, III, 86–87.

23. Boston *American Herald*, 6 August 1787, Kaminski and Saladino, *Commentaries*, Vol. 1, p. 185.

24. Madison to Jefferson, Philadelphia, 18 July 1787, *Madison*, X, 105.

25. *Ibid.*

defeating the curiosity of the public that all debate is suspended upon the entrance of their own officers. Though we readily admit the propriety of excluding an indiscriminate attendance upon the discussions of this *deliberative* council, it is hoped that the privacy of their transactions will be an additional motive for dispatch, as the anxiety of the people must be necessarily increased, by every appearance of mystery in conducting this important business.²⁶

Sometimes newspaper reports were woefully incorrect or outright fabrications, as when it was suggested that the Convention had decided to expel Rhode Island from the Union. To stifle reports that the Convention was entertaining the reestablishment of a monarchy, a “leak” from the Convention informed a local printer that “tho’ we cannot, affirmatively tell you what we are doing; we can negatively tell you what we are not doing—we never once thought of a king.”²⁷

Despite these lapses in the rule of secrecy, only the broad outlines of the new Constitution were known even to the most knowledgeable people before the Convention adjourned. No one outside the Convention knew the full details of the Constitution or of the numerous compromises fashioned by the delegates.

After the Convention adjourned various delegates reported back to their state legislatures transmitting the official printed copy of the Constitution and sometimes disclosing some of the debate in the Convention. Antifederalist Luther Martin of Maryland was most detailed. He later expanded his legislative report in a newspaper series of twelve installments entitled “Genuine Information,” published in the Baltimore *Maryland Gazette* between 28 December 1787 and 8 February 1788 and

26. *Pennsylvania Herald*, 2 June 1787, Kaminski and Saladino, *Commentaries*, Vol. 1, p. 122–23.

27. *Pennsylvania Herald*, 18 August 1787, *ibid.*, 174.

reprinted in newspapers in Massachusetts, New York, Pennsylvania, Virginia, and South Carolina. The series appeared as a pamphlet on 12 April 1788 that received national circulation. Martin was roundly condemned by Federalists and praised by Antifederalists. According to "Centinel" XIV, a prolific, partisan Pennsylvania Antifederalist essayist, Martin had

laid open the conclave, exposed the dark scene within, developed the mystery of the proceedings, and illustrated the machinations of ambition. His public spirit has drawn upon him the rage of the conspirators, for daring to remove the veil of secrecy, and announcing to the public the meditated, gilded mischief; all their powers are exerting for his destruction; the mint of calumny is acidulously engaged in coining scandal to blacken his character, and thereby to invalidate his testimony; but this illustrious patriot will rise superior to all their low arts, and be the better confirmed in the good opinion and esteem of his fellow-citizens.²⁸

During the debate over ratifying the Constitution, Antifederalists made the secrecy rule an issue. Minimally, Antifederalists charged the Convention delegates with action that "bears upon its face the colour of suspicion. . . . They excluded themselves, as it were from the view of the public. . . . This might have been done to blunt the natural jealousy of the people; but it was depriving them of a guard to their liberties, which they should ever possess. Whatever were their intentions in shutting out their proceedings from the public ear, it carried in it a suspicious appearance."²⁹ Other Antifederalists were less generous as they described

28. "Centinel" No. XIV, Philadelphia *Independent Gazetteer*, 5 February 1788, *ibid.*, Vol. 4, p. 32.

29. "A Federal Republican," *A Review of the Constitution Proposed by the Late Convention Held at Philadelphia*, *ibid.*, Vol. 2, pp. 258–59. This 39-page pamphlet was published in Philadelphia on 28 November 1787.

the Convention as a "dark conclave" and the Constitution as the product of an aristocracy intent on subverting the rights and liberties of the people. "Centinel" attacked "The authors of the new plan, [who] conscious that it would not stand the test of enlightened patriotism, tyrannically endeavoured to preclude all investigation. If their views were laudable; if they were honest, the contrary would have been their conduct, they would have invited the freest discussion"³⁰

In denouncing the Constitution, "Centinel" charged that "The evil genius of darkness presided at its birth, it came forth under the veil of mystery, its true features being carefully concealed, and every deceptive art has been and is practising to have this spurious brat received as the genuine offspring of heaven-born liberty."³¹ Antifederalist Robert Whitehill in the Pennsylvania ratifying convention denounced the new Constitution as "a government which originates in mystery and must terminate in despotism,"³² while the minority of the convention in its formal address to the public warned of "the gilded chains [that] were forged in the secret conclave . . . the womb of suspicious secrecy."³³ "An Officer of the Late Continental Army" denounced "the thick veil of secrecy" maintained by the Constitutional Convention that "has left us entirely in the dark." The deception continued with "the unaccountable *suppression of their journals*, the highest insult that could be offered to the majesty of the people, shows clearly that the whole of the new plan was entirely the work of an *aristocratic majority*."³⁴

30. "Centinel" No. II, Philadelphia *Freeman's Journal*, 24 October 1787, *ibid.*, Vol. 1, pp. 458–59.

31. "Centinel" No. IV, Philadelphia *Independent Gazetteer*, 30 November 1787, *ibid.*, Vol. 2, p. 321.

32. Speech in the Pennsylvania convention on 30 November 1787, Merrill Jensen, John P. Kaminski, and Gaspare J. Saladino, eds., *The Documentary History of the Ratification of the Constitution*, Volume II, *Pennsylvania* (Madison, Wis., 1976), 425.

33. Kaminski and Saladino, *Commentaries*, Vol. 3, p. 15.

34. Jensen, Kaminski and Saladino, *Pennsylvania*, 215.

In New York, "Cæsar" denounced "Cato" for not addressing his complaints against the Constitution while the Constitutional Convention sat. "If this demagogue had talents to throw light on the subject of Legislation, why did he not offer them when the Convention was in session? If they had been judged useful, no doubt they would have been attended to." "Cato" responded quickly. He along with the general public thought

that the wisdom of America, in that Convention, was drawn as it were to a Focus—I placed an unbounded confidence in some of the characters who were members of it, from the services they had rendered their country, without adverting to the ambitious and interested views of others. I was willingly led to expect a model of perfection and security that would have astonished the world. Therefore, to have offered observation, on the subject of legislation, under these impressions, would have discovered no less arrogance than Cæsar. The Convention too, when in session, shut their doors to the observations of the community, and their members were under an obligation of secrecy—Nothing transpired—to have suggested remarks on unknown and anticipated principles would have been like a man groping in the dark, and folly in the extreme.³⁵

"A Plebeian" agreed that while the Constitutional Convention met its proceedings "were kept an impenetrable secret, and no opportunity was given for well informed men to offer their sentiments upon the subject."³⁶

35. "Cato" No. I, New York *Daily Advertiser*, 1 October 1787 and "Cato" No. II, *New York Journal*, 11 October 1787, Kaminski and Saladino, *Commentaries*, Vol. 1, pp. 288, 370. "Cæsar" was thought to be Alexander Hamilton; "Cato" was thought to be New York Governor George Clinton.

36. "A Plebeian," *An Address to the People of the State of New York*, 17 April 1788, *ibid.*, Vol. 5, p. 155.

In Virginia, Patrick Henry, an ardent opponent of ratification, condemned government secrecy in general and the Convention's secrecy in particular. He knew for certain that without a secrecy rule, the Convention would have submitted a completely different Constitution to the American public—one that "would have given more general satisfaction."³⁷ No government, in Henry's opinion, should be allowed to "carry on the most wicked and pernicious of schemes, under the dark veil of secrecy. The liberties of a people never were nor ever will be secure, when the transactions of their rulers may be concealed from them." Henry admitted that he was "not an advocate for divulging indiscriminately all the operations of Government." Information about military operations, foreign affairs, and other "affairs of great consequence" should not be disclosed "till the end which required their secrecy should have been effected. But to cover with the veil of secrecy, the common routine of business is an abomination in the eyes of every intelligent man, and every friend to his country."³⁸ James Madison and other Virginia Federalists disagreed with Henry, suggesting that it was "universally admitted" that delicate matters between countries sometimes needed to be withheld from the public's view.³⁹ In fact all the state legislatures and the British House of Commons had "a discretionary power of concealing important transactions, the publication of which might be detrimental to the community."⁴⁰

Advocates of the new Constitution realized that the state ratifying conventions could not be closed to the public. All of the conventions allowed the public access to their galleries, and in six states lengthy convention debates were published in newspapers and/or

37. Speech in the Virginia ratifying convention, 9 June 1788, Kaminski and Saladino, *Virginia*, 1066–67.

38. *Ibid.*

39. *Ibid.*, 1224.

40. *Ibid.*, 1295–96.

as book-length publications.⁴¹ Some conventions even moved out of their statehouses or other assigned buildings to larger accommodations to oblige an interested public.

The new Constitution required both houses of Congress to keep a journal of their proceedings and publish them “from time to time . . . excepting such parts as may in their judgment require secrecy.” Although the Constitution required neither house to keep its doors open to the public, the House of Representatives adopted a rule opening its sessions to the public, and its debates were published as quickly as possible in newspapers and in a separate publication. Some people objected. Abigail Adams, for instance, questioned whether it was “prudent discret or wise, that the Debates of the House should be publish’d in the crude indigested manner in which they appear to be given to the publick.”⁴² The Senate maintained the old tradition and barred the public from its sessions until 1793.

The publication of the debates and proceedings of the Constitutional Convention was slow. The Convention’s journals and papers were first published in 1919, when U.S. Secretary of State John Quincy Adams, in conformity with a congressional resolution of the previous year, edited and published them as *Journals, Acts and Proceedings, of the Convention . . . Which Formed the Constitution of the United States*. This publication provided only the broad outline of the Convention’s actions. The Convention’s secretary, William Jackson, destroyed most of the “loose papers” before he delivered the journals and a few other papers to George Washington on the evening of the last day of the Convention. These records are now in the National Archives in Record Group

41. Reports of speeches were widely printed from the conventions in Pennsylvania, Connecticut, Massachusetts, Virginia, New York, and North Carolina.

42. Abigail Adams to John Adams, Braintree, 26 April 1789, *Adams Family Papers: An Electronic Archives*, Massachusetts Historical Society.

360: “Records of the Continental and Confederation Congresses and the Constitutional Convention.” The Convention records themselves are on a single roll of microfilm (M-866) labeled *Records of the Constitutional Convention of 1787*.

Various Convention delegates kept their own personal notes of the debates. In 1808 Edmund Genêt, the discredited French minister to the United States who stayed on in America since the early 1790s rather than face execution at home, published the first of the delegates’ notes. Genêt, who had married New York Governor George Clinton’s daughter, avidly supported the presidential aspirations of his father-in-law, who was in 1808 serving as Thomas Jefferson’s vice president. Clinton’s only serious challenger for the congressional caucus’s nomination was Secretary of State James Madison. To discredit Madison, Genêt, signing himself as “A Citizen of New-York” (a pseudonym formerly used by John Jay), published an eight-page pamphlet of Robert Yates’s notes, indicating that Madison was a real danger to the Constitution because he had in the Constitutional Convention supported the creation of a government “on the principles of unity and consolidation, to the total exclusion of state governments.” Rather than elect a man who had wanted “to prostrate our state governments, which are the pillars of our federation,” Americans should give their “votes to the one who hath never deviated and who is now what he always hath been, an energetic supporter of American federation, but an enemy to consolidation and monarchy.”⁴³

All of Yates’s notes were published in 1821 as the *Secret Proceedings and Debates of the Convention Assembled at Philadelphia in the Year 1787*. Yates’s notes covered the debates only to 10 July, when he left Philadelphia disgruntled with the direction the Convention was taking. Again, Edmund Genêt, the anonymous

43. “A Citizen of New-York,” *A Letter to the Electors of President and Vice-President of the United States* (New York, 1808), 4–6.

editor, readily altered the notes to suit local political needs as New York was in the midst of drafting a new state constitution.

James Madison's notes of the Convention are by far the fullest account of the debates. Throughout his lifetime, Madison refused to allow anyone but a handful of close friends and associates to see his notes. He told those who appealed to him for information to study the public debate over the ratification of the Constitution, especially the debates in the state ratifying conventions for an understanding of the meaning of the Constitution. Madison's notes of the debates in the Constitutional Convention were finally published in 1840, four years after his death. With this gift from Madison, much of the mysterious fog created by the secrecy of the Convention has been lifted. Various editions of Madison's notes, sometimes with the notes of other delegates, have been subsequently published.⁴⁴

It seems unlikely that a constitutional convention today could close its meetings to the public. In fact, most Americans have little confidence that a modern constitutional convention—meeting openly or secretly—could improve upon the work of the Founding Fathers. Perhaps their rule of secrecy was necessary for their success.

44. The standard source for the debates is still Max Farrand's *The Records of the Federal Convention of 1787*, published first in three volumes in 1911.