

“No Better Way of Selecting the Man in Whom They Place the Highest Confidence”: A Note on James Madison’s Remarks on the Electoral College at Richmond’s Ratifying Convention

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ABSTRACT This article discusses the remarks by James Madison to Virginia’s ratifying convention in June 1788 as they relate to the Electoral College. Madison’s remarks in Richmond shed light on his rarely highlighted expectations of the workings of the Electoral College and provide insight into the Constitutional Convention’s debate on the legislative selection of the President.

James Madison, delegate of Orange County and soon-to-be candidate for Virginia’s 5th House District, faced criticism of the Constitution’s unique procedures for the election of the President during the debates at Richmond’s June 1788 ratifying convention. He offered one of his clearest and most candid explanations of his own expectations for the workings of the Electoral College, an institution that he had coauthored only a few months before in Philadelphia at the Constitutional Convention at the end of August and in early September 1787. Article II, Section 1, was discussed by Madison in remarks on the 16th day of Virginia’s ratifying convention in response to criticism from some of the most outspoken opponents of ratification, including Prince Edward County’s delegate Patrick Henry and Stafford County’s delegate George Mason. Rarely referenced remarks by Madison at Richmond’s ratifying convention are well worth considering to appreciate what sometimes is lost in today’s discussions of the Electoral College. Specifically of concern is the disconnect between what Madison and most drafters of the Constitution expected of the Electoral College workings as a legislative-led, parliamentary-like selection of the President in contrast to the actual history of presidential elections with the emergence of political parties.

“I will take the liberty of making a few observations which may place this in such a light as may obviate objections,” Mr. Madison said when he began his Wednesday, June 18, 1788, discussion of the Constitution’s Article II.¹ “It is observable, that none of the honorable members objecting to this, have pointed out the right mode of election,” he remarked about this part of the Constitution. The

“honorable members” included delegate Patrick Henry; delegate George Mason; James Monroe, delegate of Spotsylvania County; and William Grayson, delegate of Prince William County, who had expressed their doubts about the presidency that Wednesday. Henry, Mason, Monroe, and Grayson all objected to different parts of the Constitution’s Article II, Section 1. What Madison said in his response to these objections was his expectation if not his preference (“I have found no better way”) for, in Madison’s words, “the right mode of the election” in the House, with each state casting one vote for any one of as many as five different candidates for President in January or February. Madison’s remarks spoke to the success of the smaller states that had left the Constitutional Convention satisfied with the compromise they had struck on Article II. They were convinced that they each would cast the same one vote as the larger states in the January or February election in the House of Representatives for any of the three, four, five, or more candidates that they had expected to run for President. That Wednesday in Richmond, Madison expressed his expectation of the “eventual voting by states” in which “the small states will have the advantage” in selecting the President in the House.

“Here is a compromise,” Madison told the Richmond convention in describing this section of the Constitution that he had coauthored months earlier as one of the 11 members of the Committee on Unfinished Parts.² “For in the eventual election, the small states will have the advantage,” Madison told his fellow delegates, who had heard speeches earlier that Wednesday by James Monroe and William Grayson objecting to this. “In so extensive a country, it is probable that many persons will be voted for, and the lowest of the five highest on the list may not be so inconsiderable as he supposes.” Madison told the delegates this in response to the objections of George Mason, who had said that he

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would rather have elections decided in the House of Representatives between only the two candidates with the largest vote—not the five as specified in Article II, Section 1.³

"The prevailing expectation," Stanford University historian and political scientist Jack N. Rakove (1996) said of the Constitutional Convention, was "a legislative role in selecting the President"—an expectation evident in Madison's remarks in Richmond. Madison's assurances "that many persons will be voted for" is his approval of a parliamentary-like role for the House in selecting the President (Rakove 1996, 266).⁴ A large country could be expected to deliver an extensive number of candidates for President in November or December, extending elections to the January or February closing session of the lame-duck Congress whose last order of business would include the selection of any one from as many as five candidates by the House.

"As to the eventual voting by states, it has my approbation," Madison told delegates that Wednesday about the selection of the President by the House, with each state casting one vote.⁵ "I have found no better way of selecting the man in whom they place the highest confidence," Madison stated to his fellow delegates and the audience in Richmond. "The diversity of circumstances, situation, and extent of the different states will render previous combination, with respect to the election of the President, impossible," Madison told them.⁶ Madison's final word in his defense of Article II, Section 1—"impossible"—could and should have left little doubt in the minds of delegates and the audience in attendance at Richmond's convention. Instead of ever being "won and done"—the word Madison chose was "impossible"—in November or December, elections could be expected to take place weeks later with the selection of the President by the House of Representatives.

Without the expectation of any organization like today's national political parties to coax coalitions around only a few national candidates for President, Madison and the Constitution's other drafters who had signed on to Article II, Section 1, as a late-in-the-convention compromise returned home to their respective states to defend it. This happened in ratifying conventions like the one in Richmond, where they praised it as yet one more split-the-difference solution to stalemate among the states. They agreed that their unique mechanism for the January or February selection of the President would be, in fact, commonplace in elections. Few Founders spoke publicly on these little-questioned assumptions and expectations, making Mr. Madison's remarks in Richmond all the more worthy of consideration. His remarks that the size of the country and the differences among the states would yield numerous candidates for the nation's highest office—most certainly more than two candidates and possibly more than the five provided for in Article II, Section 1—are to this day more forthright than almost any of his fellow Founders.⁷ Yet, it soon became clear that this unique mechanism in Article II, Section 1, mostly would be unused because elections regularly were won and done in November or December. Therefore, it fell not to the House of Representatives but instead to the political parties to coordinate the casting of electoral votes in the legislatures and the canvassing of votes in states that awarded them either by district or by casting of popular votes in statewide contests. This rendered the President's selection in the House the rare exception more than the rule.

A final comment in this regard is reserved for the great Elmer Eric Schattschneider, whose 1942 *Party Government* put Madison and other delegates' unrealized assumptions of a Constitution

without anything like national political parties to coax national coalitions around one or two leading candidates this in plain-spoken perspective: "One of the best proofs of the proposition that the authors of the Constitution did not understand party politics is to be found in the Constitution itself in the provisions made for the election of a president by the House of Representatives when no candidate receives a majority in the Electoral College. This machinery has now been unused for more than a century" (Schattschneider 1942). "More especially the provision in the original Constitution that the House choose a president from the five candidates receiving the highest electoral vote shows how greatly the authors of the Constitution underestimated the power of the parties to bring about a concentration of votes" (Schattschneider 1942, 51; italics in original). These underestimations are understood better by our consideration of Mr. Madison and his statements on that now-mostly-forgotten 16th day of Virginia's ratifying convention in Richmond.

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CONFLICTS OF INTEREST

The author declares that there are no ethical issues or conflicts of interest in this research. ■

NOTES

1. Article II, Section 1, of the Constitution stipulated that "Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress. The Person having the greatest Number of Votes shall be President, if such Number be a Majority of the whole Number of Electors appointed, and if there be more than one who have such Majority, and have an equal Number of Votes, then the House of Representatives shall immediately chuse [sic] by Ballot one of them for President, and if no Person have a Majority, then from the five highest on the List the said House shall in like manner chuse [sic] the President."
2. "Method of Electing the President," Wednesday, June 18, 1788 (Hobson et al. 1979, 154). Madison's full remarks from Richmond's New Theatre are in *The Documentary History of the Ratification of the Constitution, Volume X* (Kaminski et al. 1993, 1377–78). Weeks earlier, in the Wednesday, January 16, 1788, *Independent Journal*, Madison's writing of "the eventual election" anticipated his Wednesday, June 17, 1788, speech in Richmond: "The President is indirectly derived from the choice of the people, according to the example in most of the states. The immediate election of the President is to be made by the states in their political characters," Madison said. "The eventual election, again is to be made by that branch of the legislature which consists of the national representatives, but in this particular act, they are to be thrown into the form of individual delegations." Madison's "the eventual election" in the Wednesday, January 16, 1788, *Independent Journal* is repeated verbatim in the Wednesday, June 17, 1788, speech in Richmond. However, it is in the *Independent Journal* (i.e., "The President is indirectly derived from the choice of the people, according to the example in most of the states") that the reveal is in the evidence inasmuch as a number of states, including Virginia, selected their executives through their legislature (Rutland et al. 1977, 378, 380).
3. "From the five highest on the list, by ballot of the Lower House, and the votes to be taken by States—I conceive he ought to be chosen from the two highest on the list," Mr. Mason told Mr. Madison that Wednesday. "This would be simple and easy. Then, indeed, the people would have some agency in the election" (Kaminski et al. 1993, 1376).
4. "It was expected that the electors would naturally vote for men from their own state" (Farrand 1913). "It was conceded that [George] Washington would be chosen in the first election, but in subsequent elections it was expected that the vote would be so scattered as not to give a majority to any one person," Farrand (1913, 167) stated. Furthermore, "The large states would nominate the candidates and the eventual election would be controlled by the small states. The convention acted on the assumption that this would happen in the great majority of cases."
5. The Committee on Unfinished Parts, also known as the Committee on Postponed Matters, included Roger Sherman of Connecticut, John Dickinson of Delaware, Abraham Baldwin of Georgia, Daniel Carroll of Maryland, Rufus King of Massachusetts, Nicholas Gilman of New Hampshire, Jonathan Breatly of New Jersey,

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- Hugh Williamson of North Carolina, Gouverneur Morris of Pennsylvania, and Pierce Butler of South Carolina.
6. "Method of Electing the President," Wednesday, June 18, 1788 (Hobson et al. 1979, 154–55).
 7. "Considering the different views of different States, & the different districts Northern Middle & Southern, he concurred with those who thought that the votes would not be centered, and that the appointment would consequently in the present mode devolve on the Senate," Alexander Hamilton told delegates in the Thursday, September 6, 1787, debate. This finished the Committee on Unfinished Parts' work by designating the House of Representatives and not the Senate as the chamber to select the President. "Constitutional Convention, Remarks on the Election of the President" (Syrett and Cooke 1962, 243).

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