

Documenting the Constitution: The Documentary History of the Ratification of the Constitution Project at the University of Wisconsin–Madison

by John P. Kaminski

The opening words of the Preamble to the Constitution—“We the People”—are familiar to most of us. These three words have a very special significance. Indeed, each year hundreds of thousands of people make the pilgrimage to Washington where they climb the majestic Constitution Avenue marble staircase of the National Archives, pass through the giant Corinthian columns and massive bronze doors, and enter into a circular exhibition hall which is now the permanent home of the great charters of American freedom—the Declaration of Independence, the Constitution, and the Bill of Rights.

A sense of reverence permeates the Pantheonic rotunda as people from around the world file by the documents that provide the foundation for the government of the United States and the liberties of the American people. Some stop to read the ornate script; others capture only a glimpse of the oversized, fading pieces of parchment as they pass by. All, however, feel that they are in the presence of something profoundly significant in the history of mankind. They are right.

Thomas Paine, the great revolutionary-era writer—the author of *Common Sense*—wrote,

A constitution is the act of the people in their original character of sovereignty. A government is a creature of the constitution; it is produced and brought into existence by it. A constitution defines and limits the powers of the government it creates. It therefore follows, as a natural and also a logical result, that the governmental exercise of any power not authorized by the constitution is an assumed power, and therefore illegal.

The Constitution of the United States and the Bill of Rights are, therefore, the bedrock of American freedom. Although America owes much to its English and colonial heritage for the evolution of its political rights, it is from the Constitution and the Bill of Rights that all liberty in the United States emanates.

The writing and adoption of the Constitution were extraordinary historical events—representatives of twelve states met and drafted a new form of government; their new charter was thoroughly debated by the public and then submitted to specially convened state ratifying conventions elected directly by the people. This process of ratification, in which the people were consulted, gave legitimacy to the new government. Years after the event, James Madison said that the state conventions gave the Constitution “all the validity & authority it possesses.”

It is not surprising that this great debate over the ratification of the Constitution would interest scholars, judges, politicians, and a whole range of others. This wide interest encouraged the federal government to initiate The Documentary History of the Ratification of the Constitution project, which is located in the Department of History at the University of Wisconsin–Madison; and for the past quarter century, a small group of historians has been engaged in the monumental task of documenting the drafting and ratification of these charters, which took place from 1787 to 1791. Approximately fifteen more years will be necessary to complete this daunting project.



In 1932 Congress enacted the National Archives Act, which provided for the construction of a building to house the records of the United States. The act also created the National Historical Publications Commission (NHPC), which was charged with developing a program to save the nation's historical documentary heritage. In 1936, at its third meeting, the NHPC proposed that Congress establish a documentary history of the ratification of the Constitution and the Bill of Rights under the NHPC's auspices. The commission explained that it was important “in assessing the significance of the Constitution to know as fully as possible what the people who were responsible for its ratification understood it to mean, why they ratified it, and what forces and issues were involved in the struggle over ratification.” The commission sent the report to Congress in March 1936, and in 1939 bills were introduced in both houses of Congress, but no act was passed. In fact, it would be many years before the project received any funding. World War II prevented any further action by Congress.

After the war, the Federal Records Act of 1950 revitalized the NHPC. On January 2, 1951, the NHPC's executive director



Citizens viewing America's historic documents. Photo taken from seventy-five feet above the floor of the National Archives Rotunda. Courtesy National Archives and Records Administration.

recommended that “provision be made for the commission’s staff to begin the compilation and editing of the documentary history of the ratification of the Constitution and the first ten amendments.” In December 1951, the NHPC approved in principle the publication, under its auspices, of the ratification project. Searching for and collecting photocopies and micro-filming of documents began, but haltingly and only as time permitted.

The NHPC first received grant funds for the ratification project from the Ford Foundation in 1957. An editor and two assistants were hired and the National Archives provided office space. Robert E. Cushman, professor emeritus at Cornell University, became the first editor of the project, which was estimated to run to six or seven volumes. Once researchers began their work, however, they discovered much more material than was expected. This was good news, of course, fully justifying the NHPC’s judgment of the project’s importance; but the size of the project also posed a serious problem, for it became far more complex than had been anticipated.

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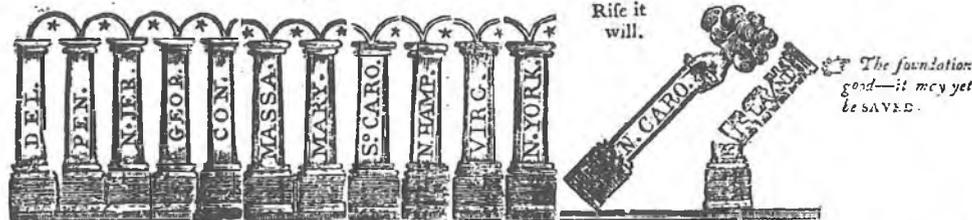
In the late 1960s, Dr. Cushman became ill, and work on the project came to a virtual standstill with no volumes yet published. After Dr. Cushman’s death in 1969, the NHPC chose Professor Merrill Jensen of the University of Wisconsin as the new editor. Professor Jensen hired two former students of his as associate editors—myself and Gaspare J. Saladino. In October 1970 the project left the National Archives in Washington and moved to Wisconsin. Upon Professor Jensen’s death

in January 1980, I was appointed project director by the NHPC with Gaspare Saladino as my co-editor. Richard Leffler, who had begun work on the project in 1973, became senior associate editor. In 1986 Charles H. Schoenleber served as an intern on the project and has since become associate editor. Charles D. Hagermann serves as the project’s computer operator.

Soon after the new staff was appointed in 1970, they realized the extraordinary dimensions of the project and undertook additional searching for documents. The ratification project is on a different order of magnitude from most documentary his-

REDEUNT SATURNIA REGNA.

On the erection of the Eleventh PILLAR of the great National DOME, we beg leave most sincerely to felicitate "OUR DEAR COUNTRY."



The FEDERAL EDIFICE.

ELEVEN STARS, in quick succession rise—
 ELEVEN COLUMNS strike our wond'ring eyes,
 Soon o'er the whole, shall swell the beauteous DOME
 COLUMBIA's boast—and FREEDOM's hallow'd ho
 Here shall the ARTS in glorious splendour shine!
 And AGRICULTURE give her stores divine!
 COMMERCE refin'd, dispense us more than gold,
 And th's new world, teach WISDOM to the old—
 RELIGION here shall fix her blest abode,

Cartoon from the Massachusetts Centinel, August 2, 1788, showing New York as the "eleventh pillar of the national edifice." Inset: New York City celebrates the Constitution. Collection of The New York Historical Society.



tory projects. There were nearly 1,700 members of the thirteen state legislatures that called ratifying conventions to consider the Constitution. The state conventions contained 1,648 members. There were also many local and state officials, people of influence who held no public office, and private citizens of all descriptions who directly or indirectly became involved in the most important political debate of the time.

Many of these individuals left manuscripts, and an intensive search has been carried out of hundreds of libraries, archives, historical societies, private collections, auction-sale catalogs, and published primary sources to locate documents relating to the debate over the ratification of the Constitution. All of the 150 newspapers of the time and every broadside, pamphlet, magazine, and book published in the United States between 1787 and 1791 have been searched, as have the official records of the state legislatures, executives, and ratifying conventions. Over the years the ratification project has accessioned copies of over 60,000 documents—one-quarter are manuscripts, three-quarters are printed items.

Some of these documents are small newspaper squibs; others are huge, such as the 600 printed pages of debates in the Virginia ratifying convention published originally in three volumes in 1788 and 1789. Some documents are well known, such as the 85 essays of *The Federalist Papers* written by Alexander Hamilton, James Madison, and John Jay; but others include letters, essays, and speeches by participants in the struggle over the Constitution whose roles are less well known, such as Samuel Adams, George Clinton, Tench Coxe, Elbridge Gerry, John Hancock, Patrick Henry, Arthur and Richard Henry Lee, George Mason, Edmund Randolph, and Mercy Otis Warren.

The voice of the public is heard in the debates, which were held in town and county meetings (for example, 98 towns in Connecticut, 84 counties in Virginia, almost 400 towns in Massachusetts); in petitions from artisans, merchants, and religious groups; and in letters, diaries, and newspaper essays.

Several hundred dispatches from foreign diplomats stationed in America to their governments (French, English, Spanish, Dutch, Swedish, Austrian, and German) provide surprising insights into American politics and society. These documents show how Americans were perceived by other countries; they also show the influence that events in America had in Europe on the eve of the French Revolution. As far as possible, the *Ratification* volumes try to recreate the dynamic debate over the Constitution by letting the participants speak for themselves through the documents, many of which have never been published before. The volumes of *The Documentary History of the Ratification of the Constitution* make this record available to scholars, lawyers, judges, government officials, students, and others who seek the meaning of the Constitution and the Bill of Rights.

There is an added value when even well-known documents are printed in the volumes. For instance, this is the first time that *The Federalist Papers* have been published in their original

context surrounded by other essays, pamphlets, and letters defending and attacking the Constitution. The *Ratification* volumes enable a reader to study the letters and essays of someone like James Madison while reading the same letters, essays, and newspaper reports of events that Madison himself was reading. Pulitzer Prize-winning historian Michael Kammen of Cornell University has written that in the *Ratification* volumes:

The intermingling of public and private documents works marvelously well for many reasons. We can compare the rhetoric designed to persuade with ruminations reflecting doubt or apprehension. We can compare assertions and predictions with what actually came to pass.

This placing of events and arguments in context—assisted by extensive cross references—should enable readers to see the relationships, sometimes the interplay, between the documents and the participants in the developing debate over the ratification of the Constitution. The record of this debate forms the greatest body of political writing in American history.

D E B A T E S
AND OTHER
PROCEEDINGS
OF THE
CONVENTION
OF
VIRGINIA,

Convened at Richmond, on Monday the 2d day of June, 1788, for the purpose of deliberating on the Constitution recommended by the Grand Federal Convention.

TO WHICH IS PREFIXED,
THE
FEDERAL CONSTITUTION,

Virginia Convention, 1788.


PETERSBURG:
PRINTED BY
HUNTER AND PRENTIS.
M, DCC, LXXXVIII.

T H E

F E D E R A L I S T ;

A C O L L E C T I O N

S. M. Hare

E S S A Y S,

WRITTEN IN FAVOUR OF THE

N E W C O N S T I T U T I O N,

AS AGREED UPON BY THE FEDERAL CONVENTION,
SEPTEMBER 17, 1787.

I N T W O V O L U M E S.

V O L . I.

N E W - Y O R K :

PRINTED AND SOLD BY J. AND A. M'LEAN,
No. 41, HANOVER-SQUARE.
M, DCC, LXXXVIII.

It is not always clear to people what is meant by “editing” historical documents. The term “editing” has a special meaning for historical editors. Obviously, no one would want James Madison’s or Alexander Hamilton’s manuscripts “edited” in the sense of a modern copy editor altering the work of an author, and certainly this is not what historical editors do with documents.

Historical editors do extensive searches to locate and collect documents on their subjects. These documents are transcribed for publication in book form, using rigorous methods to assure fidelity to the original. This means painstaking proof-reading to assure the accuracy of the transcriptions and to retain as much of the original punctuation and spelling as possible. It means selecting the most illuminating documents and arranging them in a meaningful manner for publication. It means doing research and writing appropriate annotations to explain obscure references or to put people and events in their proper historical context. It means indexing so that the information in a volume is easily accessible.

If the historical editor does the job well, an uncatalogued letter hidden away in the stacks of an inaccessible library, written in a nearly illegible handwriting, with badly faded ink on

Mous Vernon Dec 17th 1787.

My dear Sir,

Since my last to you, I have
been favoured with your letters of the 28th of
Oct. & 18th of Nov. — With the last came 7 numbers
of the *Federalist* under the signature of Publius.
— For these I thank you. — They are forwarded to
a gentleman in Richmond for re-publication. — The
design of which in this State will, I am persuaded,
have a good effect, as there are certainly charac-
ters in it who are no friends to a general govern-
ment — perhaps I might go further & add who
would have no great objection to the introduction
of anarchy & confusion. —

Sample of George Washington's handwriting. Courtesy Amherst College Library Special Collections.

poorly preserved paper, becomes a useful, readable document. References to persons and events that were once considered commonplace by the original writer, but that are now obscure or totally unrecognizable, are annotated by an experienced editor. Only then does the full meaning of a document become apparent. The historical editor becomes completely immersed in the documents on a day-by-day basis over a period of years. No one knows the documents and their interconnections better. And with the publication of documents, our historical heritage is preserved and is made accessible to a wide audience.

While serving as U.S. Secretary of State, Thomas Jefferson lamented:

Time & accident are committing daily havoc on the originals [documents] deposited in our public offices. The late war has done the work of centuries in this business. The lost cannot be recovered; but let us save what remains: not by vaults and locks which fence them from the public eye and use, in consigning them to the waste of time, but by such a multiplication of copies, as shall place them beyond the reach of accident.

Jefferson's charge serves as the mandate for historical editors.

Between 1976 and 1995 twelve *Ratification* volumes have been published by the State Historical Society of Wisconsin. The first volume (1976) contains the important constitutional documents and records from the Declaration of Independence to the Constitution. The documents in this volume are often cross-referenced in annotation in the project's other volumes. Volume 2 (1976) contains the ratification debate in Pennsylvania; Volume 3 (1978) the debates in Delaware, New Jersey, Georgia, and Connecticut. Volumes 8–10 (1988, 1990, 1993) contain the debates in Virginia; Volumes 13–18 (1981, 1983, 1984, 1986, 1995), the sub-series called *Commentaries on the Constitution: Public and Private*, which presents the day-by-day debate over the Constitution that took place on a regional or national level in

newspapers, magazines, broadsides, and pamphlets. This six-volume sub-series also contains private, public, and diplomatic correspondence commenting on the Constitution in general and speculating on the prospects for ratification in several states rather than describing political events in any one particular state.

Still to be completed are Volumes 4–6 on Massachusetts; Volume 7 on Maryland, South Carolina, and New Hampshire; Volumes 11–12 on New York; Volume 19 on North Carolina; Volume 20 on Rhode Island; and Volumes 21–22 on the Bill of Rights.

The *Ratification* volumes have become the standard source for



George Washington's "Rising Sun" chair used during the Constitutional Convention in Philadelphia. When the Constitution was finally signed, Benjamin Franklin expressed happiness that the chair symbolized "a rising, not a setting sun." Courtesy Independence National Historic Park.



Published volumes of The Documentary History of the Ratification of the Constitution.

scholars in many disciplines. Leonard Levy, the foremost scholar of the U.S. Bill of Rights, told the National Endowment for the Humanities that the *Ratification* volumes are his first source when he starts writing a new book. Federal appellate courts and the U.S. Supreme Court have cited the *Ratification* volumes in their opinions. When the Twenty-seventh Amendment to the Constitution was adopted in 1994, the office of the archivist of the United States contacted the ratifi-

cation project to determine which of three or four different versions of the amendment proposed by Congress in 1789 should serve as the "official" text.

Historians who have reviewed the *Ratification* volumes have been uniform in their approval. Professor Kammen believes that the series "will be of enduring value centuries hence." Professor James Anderson of the University of Georgia wrote,

These volumes will be used always as examples of the editor's art. The value of each volume and the whole series is awesome in terms of constitutional history . . . the true value of this project will only be seen in the next generation of scholarship on the Constitution.

Acknowledgments

Primary support for the ratification project is provided by the National Historical Publications and Records Commission (NHPRC) and the National Endowment for the Humanities (NEH). Additional funding has been provided by grants from the University of Wisconsin Foundation's E. Gordon Fox Fund, the Evjue Foundation, the Oscar Rennebohm Foundation, the Lynde and Harry Bradley Foundation, and from private individuals. With federal cutbacks, more support must be raised from private donations.

The Center for the Study of the American Constitution

Created in 1981, the Center for the Study of the American Constitution at the University of Wisconsin–Madison fosters a program aimed at scholarly research into the historical origins of the Constitution. Such a historical perspective is critical if we are truly to understand and appreciate the American tradition of constitutional government.

The primary focus of the center is The Documentary History of the Ratification of the Constitution project outlined in this article. The center also attempts to bring scholarship on the Constitution to the attention of the broader public through publications and an outreach program that includes scholarly lectures, symposia, a speakers' bureau, reading-discussion programs in public libraries, teachers' seminars, radio and television appearances.

Recently the center has begun a judicial education program in which state and federal judges are provided with pre-selected readings on a historical subject of interest to them. The state judges meet for two days and federal judges meet for a morning to discuss these readings with me, the center's director, and with Richard Leffler, the center's deputy director. In these various ways, the general public will become aware of the scholarly work that is being done on the origins of the Constitution and the Bill of Rights. We believe that the modern world will be vastly enriched by a greater awareness and understanding of America's magnificent heritage of freedom.

For more information on the center, write to me at the University of Wisconsin–Madison, Department of History, 455 N. Park Street, Madison, WI 53706.

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