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James Madison Speeches in U. S. House of Representatives, 15 August 1789 (excerpts)

. . . I venture to say that if we confine ourselves to an enumeration of simple acknowledged principles, the ratification will meet with but little difficulty. Amendments of a doubtful nature will have a tendency to prejudice the whole system; the proposition now suggested, partakes highly of this nature; it is doubted by many gentlemen here; it has been objected to in intelligent publications throughout the union; it is doubted by many members of the state legislatures: In one sense this declaration is true, in many others it is certainly not true; in the sense in which it is true, we have asserted the right sufficiently in what we have done; if we mean nothing more than this, that the people have a right to express and communicate their sentiments and wishes, we have provided for it already. The right of freedom of speech is secured; the liberty of the press is expressly declared to be beyond the reach of this government; the people may therefore publicly address their representatives; may privately advise them, or declare their sentiments by petition to the whole body; in all these ways they may communicate their will. If gentlemen mean to go further, and to say that the people have a right to instruct their representatives in such a sense as that the delegates were obliged to conform to those instructions, the declaration is not true. Suppose they instruct a representative by his vote to violate the constitution, is he at liberty to obey such instructions? Suppose he is instructed to patronize certain measures, and from circumstances known to him, but not to his constituents, he is convinced that they will endanger the public good, is he obliged to sacrifice his own judgment to them? Is he absolutely bound to perform what he is instructed to do? Suppose he refuses, will his vote be the less valid, or the community be disengaged from that obedience which is due from the laws of the union? If his vote must inevitably have the same effect, what sort of a right is this in the constitution to instruct a representative who has a right to disregard the order, if he pleases? In this sense the right does not exist, in the other sense it does exist, and is provided largely for.

The honorable gentleman from Massachusetts, asks if the sovereignty is not with the people at large; does he infer that the people can, in detached bodies, contravene an act established by the whole people? My idea of the sovereignty of the people is, that the people can change the constitution if they please, but while the constitution exists, they must conform themselves to its dictates: But I do not believe that the inhabitants of any district can speak the

voice of the people, so far from it, their ideas may contradict the sense of the whole people; hence the consequence that instructions are binding on the representative is of a doubtful, if not of a dangerous nature. I do not conceive, therefore, that it is necessary to agree to the proposition now made; so far as any real good is to arise from it, so far that real good is provided for; so far as it is of a doubtful nature, so far it obliges us to run the risk of losing the whole system. . . .

Mr. Madison was unwilling to take up any more of the time of the committee; but, on the other hand, he was not willing to be silent after the charges that had been brought against the committee, and the gentleman who introduced the amendments, by the honorable members on each side of him, (Messrs. Sumter and Burke.) Those gentlemen say that we are precipitating the business, and insinuate that we are not acting with candor. I appeal to the gentlemen who have heard the voice of their country, to those who have attended the debates of the State conventions, whether the amendments now proposed are not those most strenuously required by the opponents of the Constitution? It was wished that some security should be given for those great and essential rights which they have been taught to believe were in danger. I concurred, in the convention of Virginia, with those gentlemen, so far as to agree to a declaration of those rights which corresponded with my own judgment, and the other alterations which I had the honor to bring forward before the present Congress. I appeal to the gentlemen on this floor who are desirous of amending the Constitution, whether those proposed are not compatible with what are required by our constituents? Have not the people been told that the rights of conscience, the freedom of speech, the liberty of the press, and trial by jury, were in jeopardy? that they ought not to adopt the Constitution until those important rights were secured to them?

But while I approve of these amendments, I should oppose the consideration at this time of such as are likely to change the principles of the Government, or that are of a doubtful nature; because I apprehend there is little prospect of obtaining the consent of two-thirds of both Houses of Congress, and three-fourths of the State Legislatures, to ratify propositions of this kind; therefore, as a friend to what is attainable, I would limit it to the plain, simple, and important security that has been required. If I were inclined to make no alteration in the Constitution, I would bring forward such amendments as were of a dubious cast, in order to have the whole rejected.

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