

SARAH TRYPHENA PHILLIPS LECTURE ON  
AMERICAN LITERATURE AND HISTORY

## THE GREAT LITTLE MADISON: FATHER OF THE CONSTITUTION

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JOHN F. KENNEDY in 1962 described James Madison as 'the most underrated President in American History'.

At first glance this seems a strange description of one who was by general consent the Father of the Constitution, the author of twenty-nine of the eighty-five *Federalist Papers*, the major architect of the Bill of Rights, one of two major campaigners against the Alien and Sedition Acts in 1798, Jefferson's chief lieutenant, his Secretary of State, and, in 1809, his successor as the fourth President of the United States.

But there are paradoxes and contradictions in the man's thinking that go some way to explain John Kennedy's assessment. Madison was a dedicated republican with a firm faith in popular sovereignty, and the *Federalist Papers* were a superb piece of propaganda in the struggle for the ratification of the Constitution. Yet much of his thinking is conservative: in *Federalist* 10 he emerges as tough, cautious, and ultra-realistic, both in his appreciation of the primacy of economic forces and in his awareness that, at the centre of democratic politics, there is a struggle which he saw as a clash of factions, and which we in Europe, accustomed to a Marxist dialectic, would call a war of classes. The *Federalist* emphasis is on the protection of property interests against the attacks of popular majorities, not on the protection of 'the people' from the tyranny of the executive. Popular government, yes, but awareness also that a popular majority could wield a tyranny all its own. He could have said, with Burke, that the tyranny of the multitude is a multiplied tyranny.

Again, he introduced the Bill of Rights in 1790—having argued in 1787 that it was unnecessary.

And there is another paradox: the contrast between his achievement, for as such, two hundred years later, we can see it to have been, and the man's limitations of physique and experience.

How did he acquire the reputation that he did—a man of no special family standing, born in what he called ‘an obscure corner of the world’, a remote part of Virginia, so shy that he did not speak in public before the age of thirty, so physically unimpressive that he was incapable of military experience when a public career required it, with a voice that was all but inaudible? Neither in fluency of speech, nor in literary style nor in natural combativeness, was this a Tom Paine; his prose could be not only tortuous but ambiguous.

If we look beyond 1789, the paradoxes can be continued. The nationalist of 1787 broke with Hamilton in 1790, and became the nullifier and near-secessionist of 1798, so his otherwise consistent federalism was tarnished. In 1812 he took his country into a war for which it was ill-prepared, which one section of it did not support, a war the main cause of which had been already abandoned by Britain, and a war which, when it ended, had not dealt with those alleged causes anyway, like impressment and freedom of the seas. Later he denied himself a role as a Southern apologist, by his doubts over slavery, by condemning nullification and secession, by refusing to permit the pro-slavery men to exploit for their own purposes his attack on the Alien and Sedition Acts, and by refusing to endorse the pro-slavery and pro-states rights’ positions of John C. Calhoun or Robert Y. Hayne.

The answer—if I may give it at the outset—is that Madison was creating something new, and intellectually he was sailing in uncharted waters. His more philosophic associates did not attempt this. Jefferson in 1776 had contended:

Whether I had gathered my ideas from reading or reflection I do not know. I know only that I turned to neither book nor pamphlet while writing it. I did not consider it as any part of my charge to invent new ideas altogether, and to offer no sentiments which had ever been expressed before.

Adams more pungently put it, ‘not an idea in it but what had been hackneyed in Congress for 2 years before’. The Declaration of Independence, they both agreed, said nothing that had not been said repeatedly over the previous century. But, translated into the Articles of Confederation, in which sovereignty—if it could be found—was exercised by thirteen distinct and sometimes rival republics, the ideas of 1649 had proved themselves totally inadequate as a system of government. Madison’s task was to do nothing less than to devise a new theory and a new system that would reconcile empire and republic, liberty and large size, the

ability to command allegiance at the centre but permit autonomy at the peripheries. His preoccupation was with 'an empire for liberty'. He had to build nothing less than an extensive, federal, representative republic when many abroad and some at home, including Hamilton and at times Jefferson, denied that it would last, and he had to develop a political theory that would be a guide to preserving it for posterity. Madison was moving into totally new ground, and mere literary grace was not enough. What mattered was knowledge, wisdom, patience, total dedication, and that political skill some would call prudence, others opportunism, and others even inconsistency. The parallels are with Burke, and —dare it be said?—with Aristotle.

My concern tonight is with the man, and the source and nature of his political ideas, not with the final document, which is all too familiar. Who was he? Where did his ideas come from? Was he a mere imitator, as he was certainly an admirer, of Thomas Jefferson?<sup>1</sup>

The tactics came with the personality. He was dwarfed physically and in manner by the Virginian giants, Washington and Jefferson, even pushed into the shadows later (after marriage in 1794 when he was forty-three) by the stronger personality of his wife, and by the irresponsibility of her son by her first marriage, John Payne Todd. There was little charisma in the 5 foot 6 inch figure, with his hair carefully combed to hide a low forehead, almost always dressed in black, diffident and weak-voiced—so weak that it was suitable neither for the pulpit nor the law. He refused to go abroad, and travelled reluctantly—there was a chronic fear of sickness, and a frequency of 'bilious' attacks. The Virginian political leaders were by contrast impressive physically and in resources, men of many acres, and if they were not always of long-tailed families or of hereditary wealth, they made it—or married into it—easily: witness the careers of Washington and Pendleton, George Mason and Peyton Randolph. They were squires by heredity, and, almost by heredity, justices of the peace and vestrymen, hiring and firing rectors, collecting taxes for

<sup>1</sup> For reasons of time, I omit from this paper reflections on Madison's views on religious toleration, slavery, and the West. On these, see my article, 'The Political Education of James Madison', in *History Today*, 31 (Dec. 1981).

The quotations from Madison's writings that follow in this paper are drawn from *The Papers of James Madison* (eds. Rutland *et al.*, Universities of Chicago and Virginia Press, 1956—12 vols. to date). The best one-volume biography is by Ralph Ketcham (1971), but Irving Brant's six-volume life (1941–61) and one-volume abridgement (1970) are indispensable.

support of the Anglican Church, serving as county militia officers. Almost all of them came from the Tidewater or the Northern Neck, trading with Britain and the West Indies, sophisticated in their fashion, leaders chosen by open and oral elections, by men who usually went merry to the Court House.

Despite his small stature, his lack of military experience, and his remote frontier home, Madison did in many respects conform to this pattern: his first public post, as a delegate to the Virginian Convention in 1776 which drew up the Virginian Constitution, was uncontested; he went aged twenty-five as his father's son representing the sparsely settled county of Orange; his father was landowner and vestryman, justice and county lieutenant, and chairman of the Orange County Committee. He was accompanied by his uncle William Moore as a fellow delegate and went as a member of a local committee, all of whom were interrelated, and not from any merits of his own. A year later, he was defeated at the polls, a defeat he later ascribed to his youthful refusal to supply free liquor to the voters.

The people not only tolerated but expected and even required to be courted and treated. No candidate who neglected those attentions could be elected. His forbearance would have been ascribed to a mean parsimony, or to a proud disrespect of the voters . . . It was found that the old habits were too deeply rooted to be suddenly reformed. Particular circumstances obtained for me success in the first election, at which I was a candidate. At the next, I was outvoted by 2 candidates, neither of them having superior pretensions, and one particularly deficient in them; but both of them availing themselves of all the means of influence familiar to the people. My reserve was imputed to want of respect for them, if to no other unpopular motive.<sup>1</sup>

The man who won, Charles Porter, happened to be the local tavern-keeper. The limitations went deeper. He had three years at home, part of the time suffering from melancholia, and frequently admitting that he did not expect to live long; he was rejected by the first girl he sought, a fourteen-year-old Kitty Floyd from New York; and it was not until he was thirty—four years after he began his legislative career—that he first spoke in public. None of this sounded auspicious.

Montpelier was in Orange County in the Piedmont, where the Rapidan emerged from the mountains to meet the Rappahannock, 30 miles north of Monticello, 80 miles north-west of Richmond, which became the capital in 1779. When Madison

<sup>1</sup> 'Autobiographical Notes, 1832', cited in W. C. Rives, *The Life and Times of James Madison* (3 vols. 1859-68), i. 181.

first visited Richmond in May 1784, it had only three hundred buildings. The fall line settlements and all beyond them were frontier country reached by neither postriders nor coaches so that letters waited for the passing of trustworthy travellers. In political terms this was, in Madison's phrase, 'the most spirited part of the country'; here Loyalists were few indeed. But it was remote. When he went to the Continental Congress in Philadelphia in March 1780 the journey took twelve days, owing to 'the extreme badness of the roads and the frequency of rains'.

At his birth, the estate of some 5,000 acres was still raw with stumps and slash, more forest than field, rich in oak and hickory, pine and poplar, chestnut and dogwood. There were then some forty slaves, many of them children, and the rich red clay produced tobacco, corn, and wheat. His father was his own manager, aided by the younger sons, notably Ambrose, whose death in 1794 coincided with James Madison's own marriage and with his return to Montpelier—it may even have been its cause. There was here a firm and happy agrarian base, comfortable certainly but not rich. In his years as Congressman, he was constantly short of money. The state was slow in paying his salary and, without the services of moneylender Haym Solomon, he and many others could not have continued. He was self-sufficient, however, and in 1801 on his father's death he inherited the estate. It was no Westover, and no Monticello. He could devote himself to public affairs but never without anxiety; after his death his widow survived only by the sale, first, of his notes on the Convention (for \$30,000 in 1837), then his other manuscripts for \$25,000 (in 1848), and finally by selling Montpelier itself.

The family could trace their origins back to John Madison, a ship's carpenter of Gloucester County who died before 1683, and who had received 600 acres of land for immigrants whose passage was paid, and increased this by adding to it another 1,300 acres on the York and Mattaponi rivers. This is, however, one generation further back than Madison himself traced his roots. On neither side were they, he thought, 'among the most wealthy of the country, but in independent and comfortable circumstances'. They were, he said, respectable but not opulent. At his grandfather's death in 1732, there were twenty-nine slaves, of whom fourteen were children. In the next fifty years the number quadrupled. In 1782 there were 118 slaves. His grandfather owned twenty-eight books—on religion, practical medicine, and a 'manual for plantation living'. In his father's library, when he died in 1801, there were eighty-three titles,

mainly medical and religious, among them: *The Art of Midwifery*; *Cold Bathing*; *Gospel Mystery of Sanctification*; and *Life of Man in the Soul of God*.

Madison was the eldest of twelve children, five of whom died in infancy. The Piedmont countryside was dotted with Beales and Willises, Madisons and Taylors. His grandmother, Frances Taylor, widowed when thirty-two, was a strong character; she died when he was ten. There was a swarm of Taylor relatives, since Frances Taylor's four sisters had fifteen children, and her four brothers had dozens of male heirs. His father had forty or more first cousins on the Taylor side alone. Among the connections were Edmund Pendleton and John Taylor of Caroline County. On his death, Madison left the estates to some thirty nephews and nieces. Dolley said the house was once filled with more than a hundred friends and relatives. A second cousin James, born at Staunton in the Valley and brought up at Madison Hall in Augusta (now Rockingham) County, became a professor at William and Mary College, and in 1777 its president; after the Revolution he was to be first bishop of the Protestant Episcopal Church in Virginia. In 1777 Madison lodged with this cousin, the Reverend James, in Williamsburg, a town then of 150 families, and often dined—so it seems—at table in College. One of his second cousins married the sister of Patrick Henry, another, and two daughters as well, married the children of Andrew Lewis, kinsman of Washington and a victor in 1774 of the battle of Point Pleasant with the Indians. It was a family-based system. In Virginia, kinship counted. It still does.

In his education there were three periods: aged 11 to 16 at Donald Robertson's school on the Innes plantation on the Mattaponi, near Dunkirk, and near the Madison tidewater lands in King and Queen County; aged 18 to 21 at Nassau Hall (the largest building then in North America) the college of New Jersey (Princeton); and not least the three years 1772–5 of—on the whole—gloomy and melancholy but sustained reading at home at Montpelier, much of it in theology and law. Each of these was of major significance.

At school he studied the classics, French, and Spanish, and discovered later in life that his French sounded more Aberdonian than Parisian.<sup>1</sup> Robertson's library gave him access to

<sup>1</sup> Robertson was born in 1717, educated at Aberdeen and the University of Edinburgh, and came to Virginia in 1753. He was tutor in the family of Col. John Baylor of Caroline County, and was one of many pre-Revolutionary Scots schoolmasters who dispensed 'learning with a burr'.

Montesquieu, Montaigne, Fontenelle, Locke's *Essay Concerning Human Understanding*, and to the *Spectator*, as much an influence on him as on Franklin. An eight-volume set of the *Spectator* was ordered by his father two years before James Madison was born.

From 1767 to 1769 Madison was educated at home, since the newly appointed minister of the Brick Church the family attended, Thomas Martin, lived with the family at Montpelier (and died a year later). Martin was a graduate of the College of New Jersey, then under the guidance of the zealous New Light Presbyterians Samuel Davies and Samuel Finley. It was Martin's persuasions that led Madison (stage 2) to Princeton, rather than to William and Mary. Williamsburg was from July to October, 'the sickly season', a malarial area; and even worse was the fear that the president of William and Mary, James Horrocks, might become the first American bishop, as part of that Episcopal design which was, rightly or wrongly, attributed to British policy. Moreover, as Governor Fauquier reported, former President Thomas Dawson had too often applied 'for consolation to spirituous liquors'; an unnamed group of professors in 1773 were known to have 'played all Night at Cards in publick Houses in the City, and . . . often [were] seen drunken in the Street'.<sup>1</sup> By contrast, John Witherspoon, who had become president of Princeton the year before, came from Paisley and was an active Presbyterian, happily free from any taint of being a Pisky. He owed his popularity, and the call to Nassau Hall, to his satirical pamphlet *Ecclesiastical Characteristics, or The Arcana of Church Policy*, a savage attack on churchmen who put social duties before Christianity, and to whom Socrates mattered more than St. Paul. It would not stop the same Dr Witherspoon mixing his own religion with politics. His staff consisted of only two tutors but with him he brought 500 books. The Princeton library, largely the gift of Governor Belcher, had 2,000 books, but it was Witherspoon who introduced the ideas of the Scottish Enlightenment.

Madison's Princeton years are, I believe, the most important in his life, since they shaped his basic attitudes and gave him his intellectual equipment. He worked intensely hard, packing a four-year course on Scottish lines into two (August 1769–September 1771), followed by a few months with Witherspoon studying Hebrew, law, and ethics. Clearly he was attracted to the idea of

<sup>1</sup> W. S. Perry (ed.), *Historical Collections Relating to the American Colonial Church*, i. 517; cf. Burk, *History of Virginia*, iii (1805), 333, and Dumas Malone, *Jefferson the Virginian* (1948), p. 52.

a career both in divinity and in law, but in the end chose neither, presumably because of his weak voice and personal timidity. He worked so hard that he thought he would not survive the strain. He was too ill to attend his own graduation exercises. He remained shy and introspective. His health, he said in his *Autobiography*, written at the age of eighty, was 'too infirm for a journey home'. He was, however, dauntingly well prepared: Latin and Greek, mathematics and natural philosophy, and, notably, public law, the Law of Nature and of Nations which Witherspoon taught himself. His texts were Locke, Harrington, and Montesquieu in government, Grotius, Pufendorf, Barbeyrac, Cumberland, Selden, Burlamaqui, Hobbes, Machiavelli, Harrington, Locke, and Sidney. Montesquieu, Adam Ferguson, Lord Kames, and Hume appear elsewhere on his reading lists. Rousseau was ignored, and to Witherspoon Voltaire and Hume were anathema — as were Plato, More, and Utopians generally. The emphasis was on clarity in thinking and clarity in speech, with public disputations in English and Latin, which Witherspoon had introduced. The goal, of course, was knowledge, but, more than that, philosophic enquiry into the causes of things. The method was by reason not revelation.

This course of study can be described as 'philosophic' in the eighteenth century (and still in the Scottish) sense, a study *de rerum natura*. It was Scottish in the most direct sense, and it was in Scotland, and especially in Edinburgh, that what we would now call not philosophy but political sociology, and what Scots still call 'political economy', had been developed: in the work of Francis Hutcheson and David Hume, Adam Smith, Thomas Reid, Lord Kames, and Adam Ferguson, not to mention Principal Robertson as historian. Their writings in history, ethics, politics, economics, psychology, and jurisprudence, in terms of 'a system upon which natural effects are explained', had become standard texts. These Scottish writers made one common assumption. The assumption was

that there is a great uniformity among the actions of men, in all nations and ages, and that human nature remains still the same, in its principles and operations. The same motives always produce the same actions; the same events follow from the same causes . . . Would you know the sentiments, inclinations, and course of life of the Greeks and Romans? Study well the temper and actions of the French and English.

Thus wrote David Hume, presenting the basis of a science of human behaviour. The method of eighteenth-century social science

followed from this primary assumption, the constancy of the human reaction. Again Hume:

Mankind are so much the same, in all times and places, that history informs us of nothing new or strange in this particular. Its chief use is only to discover the constant and universal principles of human nature, by showing men in all varieties and situations, and furnishing us with materials from which we may form our observations and become acquainted with the regular springs of human action and behaviour.<sup>1</sup>

Moreover, the aim of studying man's behaviour in the past was for the purpose of prediction—philosophy would aid the legislator in making correct policy decisions. Comparative historical studies of man in society would allow the discovery of the constant and universal principles of human nature, which, in turn, would allow at least some safe predictions about the effects of legislation 'almost as general and certain as any which the mathematical sciences will afford us'. 'Politics' (and again the words are Hume's) to some degree 'may be reduced to a science'. This was the orthodox enlightenment view. It raided history for evidence, but it was in itself profoundly unhistorical.

In his 'Of Ancient and Modern Confederacies', Madison accepted this Age-of-Reason concept: 'the past should enlighten us on the future: knowledge of history is no more than anticipated experience. Where we see the same faults followed regularly by the same misfortunes, we may reasonably think that if we could have known the first we might have avoided the others.'<sup>2</sup> In his recent studies of the impact of Scottish thinkers on the American revolutionaries, *Inventing America* and *Explaining America*, Garry Wills has argued that the predominant influence on Thomas Jefferson and his writing of the Declaration of Independence was not John Locke and possessive individualism but rather the moral-sense philosophers of the Scottish Enlightenment, particularly Francis Hutcheson and William Small. Wills contended that Jefferson, like the eighteenth-century Scots, was a moral sentimentalist, not a contractarian; and that he believed that society was held together not by legal or contractual ties but by ties of affection, benevolence, and moral feeling. With the Scots having captured Jefferson's mind so completely, 'the question arises', Wills writes in the preface to *Explaining America*, 'whether any other political thinkers of our early national period were

<sup>1</sup> Hume, 'Of Liberty and Necessity', in *An Enquiry Concerning Human Understanding* (1748).

<sup>2</sup> *The Papers of James Madison*, ix (1975), 4–22.

influenced by the Scottish Enlightenment'. The answer, he says, is emphatically yes, that Madison was Hume's man.<sup>1</sup>

To the Age of Reason there was another basic, and to Americans, more disturbing, premise. To both Adams and Hamilton history proved (so they believed) that sooner or later the American people would have to return to a system of mixed or limited monarchy—so great was the size of the country, so diverse were the interests to be reconciled, that no other system could secure both liberty and justice. Similarly, Patrick Henry's prediction on 9 June 1788, in the Virginia Ratifying Convention, 'that one government [i.e. the proposed constitution] cannot reign over so extensive a country as this is, without absolute despotism', was grounded upon a 'political axiom' scientifically confirmed, so he believed, by history.<sup>2</sup> They all followed Montesquieu in this. It is indeed hardly surprising, since the men of the Enlightenment in Europe had no alternative but to seek their reforms through despots. And the seventeenth-century thinkers they read—Hobbes, Grotius, and Pufendorf—were advocates of the absolutist state. It was natural for Americans in moments of pessimism to talk of Cincinnatus, or even, as Hamilton did, of Caesar.

Again, Enlightenment thinking rested on a solid groundwork of historical knowledge, in spite of the essentially unhistorical nature of its theoretical foundations. History is invoked more often than philosophy. Montesquieu, Mably, and Delolme were called on less for their philosophical views than for their factual material. The history of Greece and of Republican Rome form for the Founding Fathers a first frame of reference. Besides this, the authors of the *Federalist* show acquaintance with the later history of the Holy Roman Empire—thanks, no doubt, to the invaluable Robertson—and with the separate histories of Great Britain, France, the Low Countries, and Switzerland. Although the *Federalist* was published in the same year as the last volumes of Gibbon, its authors are true to their century in their neglect of the Middle Ages. History ends with the establishment of the Roman Empire, and begins again in the second half of the fifteenth century—all between is decadence or feudal anarchy. And even in those stretches of familiar history, there were peculiar emphases: Trenchard and Gordon and *Cato's Letters* of the 1720s made Harrington as well as Locke fashionable; and consideration of the Interregnum years, 1649 to 1660, gives Cromwell hardly a

<sup>1</sup> Wills, *Inventing America: Jefferson's Declaration of Independence* (1978) and *Explaining America: the Federalist* (1980).

<sup>2</sup> Cf. Elliot's *Debates*, iii (1838), and Henry's contributions, *passim*.

mention. In all the discussion of constitutions as binding charters, why the neglect of Cromwell and the 'Instrument of Government', of Cromwellism and of republican tyranny and for that matter of British seventeenth-century Federalism?<sup>1</sup>

Into this historical-philosophic context it was easy to fit Locke but it is Locke the psychologist, rather than Locke the politician, the Locke of *Human Understanding* with his preoccupation with the universal laws governing Human Nature. In one way Locke reinforced Harrington. The origin and purpose of the state Locke found in property.

The reason why men enter into society is the preservation of their property, and the end why they choose and authorize a legislature is that there may be laws made and rules set as guards and fences to the properties of all the members of the society. It is the cause of the origin and it is the end of the state. The supreme power cannot take from any man part of his property without his consent.<sup>2</sup>

But it was the Scots, Witherspoon the Whig and Hume the Tory, who were the decisive influence on James Madison.

The impact of Princeton was important not just in this dedication to the study of political ideas, but in emphasizing the study of public law and government. Witherspoon pushed the college into the public arena. 'The spirit of liberty', he said, 'breathed high and strong'. He declared himself to be 'an opposer of lordly domination and sacerdotal tyranny',<sup>3</sup> and this role Madison was glad to inherit. At Madison's first commencement, honorary degrees—the first ever awarded—were given to John Hancock, John Dickinson, and Joseph Galloway, three revolutionary heroes; as early as 1770 the seniors wore American-spun coats—as Madison would himself at his own Inaugural as President in 1809; and, in the commencement that followed the Boston Massacre, the president's son James—who was in 1777 to be killed at the battle of Brandywine—upheld the affirmative case in the debate in Latin on the thesis 'Subjects are bound and obliged by the law of nature, to resist their king, if he treats them cruelly or ignores the law of the state, and to defend their liberty'. They also proved conclusively—and that in the presence of royal governor

<sup>1</sup> This is an area on which it is proper to salute three path-finding articles: Caroline Robbins, 'When it is that Colonies may turn Independent', *William and Mary Quarterly*, xi (April 1954) and Douglass Adair, 'That Politics may be Reduced to a Science', *Huntington Library Quarterly*, xx (1957), and his 'The Tenth Federalist Revisited', *William and Mary Quarterly*, viii (1951).

<sup>2</sup> Locke, *Second Treatise*, chap. 9 sec. 124 and chap. 11 secs. 134, 138.

<sup>3</sup> *New Jersey Archives*, xxviii. 227, 345. Cf. Ketcham, op. cit., p. 38.

William Franklin—that ‘*Omnes Homines, Jure Naturae, liberi sunt*’. His closest friend, William Bradford, in his valedictory address in 1772 spoke on ‘The disadvantages of an Unequal Distribution of Property in a State’. At Nassau Hall the young man from Orange County was drinking heady wine.

The studying did not stop at Princeton but continued (stage 3) through the next three years. Basic to it was the buying of books through Jefferson and William Bradford; the list of books he recommended for the use of Congress in 1783 included, along with many standard religious works, books by Bayle, Leibniz, and even Diderot, still little read in America. In his correspondence with Bradford and with Philip Freneau, his Princeton friends, he refers to Hume and Fielding, Pope and Kames, Swift and Samuel Butler. These years were marked by an ill health which he believed to be due to epilepsy, but much of which seems to have been in his own mind, and much talk of imminent death. But his friend William Bradford told him that ‘persons of the weakest constitutions, by taking a proper care of themselves, often outlive those of the strongest’. Despite the hypochondria, the physical handicaps which kept him out of military service and the threats of visitations of malaria, smallpox, and yellow fever, he was saved by long walks, by riding, and by regular visits to Berkeley Springs in the Catoclin Mountains, still a popular spa with Virginians. He lived of course, like many hypochondriacs, to a ripe old age: he died aged eighty-six.

There was a further stage in his education: on-the-job training as a politician. His knowledge of government was distilled not merely from books, or from reports of ‘turbulent scenes in Massachusetts and infamous ones in Rhode Island’, as he called them. By 1782, at thirty-six, he was a seasoned legislator. He had served three years in the Virginia Assembly, eleven months in Richmond in the 1784 to 1786 years, and four in Congress. He possessed clear insight into the ways of politicians. He had that necessary ingredient for political success: experience of defeat—having failed to be re-elected because he refused to hand out free whiskey. He knew the nature of pressure groups; he had worked for Virginia’s commercial interests against New York’s; he had fought religious factions in politics; he had helped push his political foe, Patrick Henry, out of the legislature upstairs into the weakest governorship in America. He was suspicious of oratory—Henry he called ‘a forensic member’; he saw him as a trimmer keen on applause, lazy, and careless. He knew the Byzantine manoeuvres of local politicians. But throughout all his activity

he read voraciously. In 1785 and 1786 he studied the federacies of Ancient Greece, of the Holy Roman Empire, the Swiss Confederation, and the United Provinces. He catalogued the various devices used for financial support, for diplomatic representation, for cooperation in time of war, for the regulation of commerce, for the coercion of members who disobeyed confederacy orders, with the troubles in mind that had bedevilled the states under the Articles of Confederation. He sought especially to identify the constitutional bonds of union, the way these bonds worked or failed to work in practice, and the particular causes of the demise or enfeeblement of confederations. He concluded his account of the several leagues with a section entitled 'Vices of the Constitution'. The 'regular fault' of the ancient and modern confederation was that 'the Deputies of the strongest cities awed and corrupted those of the weaker', and Greece thus 'was the victim of Philip . . . [and later] proved [no] Barrier to the vast projects of Rome'. In the United Provinces of the Netherlands Madison noted that though the confederacy seemed on paper to be strong enough, 'the jealousy in each province of its sovereignty renders the practice very different from the theory'. Furthermore, there were 'numerous and notorious' examples of foreign ministers who intrigued with deputies and otherwise interfered in the internal affairs of the Netherlands. Everywhere, Madison found that weak unions courted disaster.

He recorded the facts and lessons about the ancient and modern confederacies in a booklet of forty-one pocket-sized pages, easy to use in debate or writing. It became his vade mecum for the debates in the Federal Convention in 1787 and the Virginia ratifying convention in 1788. He also inserted large parts of his notes almost verbatim in the eighteenth, nineteenth, and twentieth *Federalist Papers*.<sup>1</sup> He became steadily but all but inevitably not a theologian nor a lawyer but a politician. His years at Princeton and then in the continental Congress, along with his interest in the west, emphasized his continentalism, though he was originally a States Rights man. The years of reading and studying—making an advantage out of the disadvantages of physical frailty—made him dedicated, conscientious, well-informed and, at a desk, untiring. Georgia Congressman William Pierce left this description:

Mr Madison . . . blends together the profound politician with the scholar. In the management of every great question he evidently took

<sup>1</sup> Cf. *Papers*, x (1977), notes to p. 324. Cf. also Carl Becker, *The Heavenly City of the Eighteenth-Century Philosophers* (1932), p. 95.

the lead in the convention, and though he cannot be called an orator, he is a most agreeable, eloquent and convincing speaker. From a spirit of industry and application which he possesses in a most eminent degree, he always comes forward the best informed man of any point in debate. The affairs of the United States, he perhaps has the most correct knowledge of, of any man in the Union. . . . Mr. Madison is about thirty-seven years of age, a gentleman of great modesty—with a remarkable sweet temper. He is easy and unreserved among his acquaintance, and has a most agreeable style of conversation.<sup>1</sup>

He was assiduous in recording the debates, hour after hour, day after day through the long muggy four months of Philadelphia heat. But he was no mere recorder. The Federal Convention saw him now give many major speeches. And he wrote twenty-nine articles in the *Federalist*. In 1787 he has to be judged not by his philosophy but by his statecraft, for he was not a political philosopher but a practical politician drawing solutions from past experience, not theory, and always putting his knowledge to the search for solutions. If in a sense he was doing in 1787 what Locke had done for South Carolina in drawing up a constitution, he nowhere left major philosophic testaments as did Locke and Burke, in England, as did Hamilton in his Convention Speech of 18 June 1787, and John Adams in his *Defence of the Constitutions of the United States* (1787) or his *Discourse on Davila*. The *Federalist* essays apart, and the essays for Freneau's *National Gazette*, written in the winter of 1791–2, there is no state paper that serves as his testament or as a model. His views have to be gleaned from innumerable contributions to debates, or from attitudes on particular experience as a Virginia Congressman under the first Constitution of Virginia which he helped to draft, as a councillor of state in Virginia, as a Federal Congressman from 1780 to 1783 and again in 1787, and as a Virginia Assemblyman from 1784 to 1786. This is the penman of the revolution, staying at his desk and close to home. Adrienne Koch described him as 'the most cosmopolitan statesman never to have quit American shores.'<sup>2</sup> Clinton Rossiter's phrase for him was 'a single-minded political monk'.<sup>3</sup>

What had this education given him? What ideas recur in his

<sup>1</sup> Pierce, 'Characters of the Convention', in A. T. Prescott, *Drafting the Federal Constitution, a Re-arrangement of Madison's Notes* (1941), pp. 32–3.

<sup>2</sup> Koch, *Jefferson and Madison, the Great Collaboration* (1950). His longest journey was in 1784, in Lafayette's extrovert and attention-hungry company, to the Mohawk Valley.

<sup>3</sup> Rossiter, *1787: the Grand Convention* (1966), p. 126.

writing? Intellectual activity in any culture is not of course a one-way flow between great minds and passive recipients; it is a discourse, as Gordon Wood has said in reviewing Garry Wills's recent book, 'a complex marketplace-like conglomeration of intellectual exchanges involving many participants all trying to manipulate the ideas available to them in order to explain, justify, lay blame for, or otherwise make sense of what is happening around them'.<sup>1</sup> It followed from this long indoctrination that, first, it was all but instinctive for Madison to speak the language of the social contract. The idea of a contract, he wrote to Nicholas Trist (15 February 1830), is 'a fundamental principle of free government'. The confederation was the result of 'a compact among the States'. He never captured Paine's fire, however, nor Jefferson's skill as phrase-maker. There is nothing here of the simple grandeur of those sixteenth-century citizens of Aragon who when asked to swear allegiance to their sovereign replied: 'We who are as good as you swear to you who are no better than us allegiance as Prince and Heir to our Kingdom, on the condition that you preserve our laws and liberties; and if not, not.'<sup>2</sup> In number 43 of the *Federalist* he justified the revolutionary action of the Philadelphia Convention in discarding the Articles of Confederation by referring to 'the transcendent law of nature and of nature's God, which declares that the safety and happiness of society are the objects at which all political institutions aim and to which all institutions must be sacrificed'. Natural law, and natural rights, the notion that there was a higher law binding on all governments, these were the basic doctrines of 1787, as of 1776. There was no organic view of the state, no rolling Burkeian phrases, nothing on the colonial origins and British roots and not a great deal on what might be called the argument from continuity. Everything turned on choice, either by individuals or by states, and on choice being exercised now. Madison appealed to the 'transcendent and precious right of the people to alter or abolish their governments as to them shall seem most likely to effect their safety and happiness'. All government is formed by agreement, not by tradition or inheritance, by agreement made here and now, and sovereignty can be alienated or divided. Madison had no use for the Blackstonian idea that sovereignty is absolute, indivisible, and inalienable—*un roi, une foi, une loi* was a monarchic notion and redolent

<sup>1</sup> Gordon Wood, 'Heroics', in *NY Review of Books* (2 Apr. 1981), p. 16.

<sup>2</sup> John Dunn, *Political Obligation in its Historical Context* (OUP 1980), p. 204; Ralph E. Giesey, *If Not, Not. The Oath of the Aragonese and the Legendary Laws of Sobrarbe* (Princeton, 1968), Appendix I, p. 247.

of Divine Right. Ultimate sovereignty lay with the people, the ultimate sovereign authority, 'the only legitimate fountain of power'. They, and not the individual states, must ratify the Constitution in specially summoned conventions. On them as individuals it operated. Its basis of support lay in 'the enlightened opinion and affection of the people'. In this sense he was a thorough Whig.

But it followed, secondly, that he was implicitly conservative. Property was important, and to be secured. It is property that ensures wisdom and responsibility in the citizen and stability in the state. The prime function of government, he says, is the protection of the different and unequal faculties of man for acquiring property.

From the protection of different and unequal faculties of acquiring property, the possession of different degrees and kinds of property immediately results . . . The most common and durable source of factions has been the various and unequal distribution of property. Those who hold, and those who are without, property have ever formed distinct interests in society. Those who are creditors and those who are debtors fall under a like discrimination. A landed interest, a manufacturing interest, a mercantile interest, a monied interest, with many lesser interests, grow up of necessity in civilized nations, and divide them into different classes, actuated by different sentiments and views. The regulation of these various and interfering interests forms the principal task of modern legislation, and involves the spirit of party and faction in the necessary and ordinary operations of government.

He defined a faction as 'a number of citizens, whether amounting to a majority or a minority of the whole, who are united and actuated by some common impulse of passion, or of interest, adverse to the rights of other citizens or to the permanent and aggregate interests of the community'. Government by faction is to be condemned since it permits the same men to be parties and judges in their own cause. In a controversy between creditors and debtors, both are parties, and neither should have the right to impose its will upon the other. 'Justice ought to hold the balance between them.' In like manner any question involving the mercantile or manufacturing or landed interest, or the apportionment of taxes, should not be decided at the behest of a powerful faction concerned with its own aggrandizement, but by legislators acting with an exact impartiality, and with a sole regard for justice and the public welfare. Thus Madison recognized class conflict as the basis of politics, but he refused to regard a class dictatorship as either necessary or desirable.

The latent causes of faction were sown in the nature of man.

All civilized societies [he had written in New York in the spring of 1787] are divided into different interests and factions, as they happen to be creditors or debtors—rich or poor—husbandmen, merchants, or manufacturers—members of different religious sects—followers of different political leaders—inhabitants of different districts—owners of different kinds of property, etc., etc.

Even where there was no real basis for conflict, the most frivolous and fanciful differences could excite passionate hatreds.

How control these factions? In particular under a republican government, where the majority rules, how prevent that majority from trampling on the minority or on individuals? By enlightened self-interest? But statesmen with vision would not always be at the helm. By public opinion? But the average man—even the average legislator—was likely to think in terms of local interests. Did a Rhode Island Assemblyman, Madison demanded, care what France or even Massachusetts thought of his paper money? By religion? But this did not restrain men as individuals, and it had even less effect on the masses. Indeed, religion could lead to persecution as often as it did to righteousness.

Madison inherited the idea of the individual motivated by self-interest voluntarily leaving a state of nature to live in a free government because it will protect his life, liberty, and property. What was new in his thinking was that he saw the main threat to free government arising from its own creation, from its ambitions, and from its factional spirit. How, then, to curb 'the notorious factions and oppressions' of corporate towns and little republics? Madison's answer brought him back to the grand strategy of the Philadelphia convention. The solution was not to try to remove the causes of faction, for a free society would always produce differences among men. The solution was to use man's vice as a political virtue, and allow the growth of factions to be itself a guarantee of liberty. There would be a healthy and positive 'conflict of ambition countering ambition'. This was ultra-realistic, complex, and sophisticated. And it was devoid of illusion.

Mass unrest was often perceived in the spirit of young Gouverneur Morris: 'The mob begin to think and reason. Poor reptiles! . . . They bask in the sun, and ere noon they will bite, depend upon it. The gentry begin to fear this.' Madison spoke of the Shays Rebellion in scathing terms. Nowhere in America or Europe—not even among the great liberated thinkers of the Enlightenment—did democratic ideas appear respectable to the

cultivated classes. Whether the Fathers looked to the intellectuals of contemporary Europe or to their own Christian heritage of the idea of original sin, they found ample confirmation of the notion that man is an unregenerate rebel who has to be controlled.

Human beings are generally governed by base and selfish motives, by suspicion, jealousy, desire for aggrandisement, and ambition. In *Federalist* 55, he said, 'As there is a degree of depravity in mankind which requires a certain degree of circumspection and distrust, so there are other qualities in human nature which justify a certain portion of esteem and confidence.' He was more realistic and cynical than Jefferson. There is no talk in him of the infinite perfectibility of man. 'The purest of human blessings must have a portion of alloy in them; the choice must always be made, if not of the lesser evil, at least of the greater, not the perfect good' (*Federalist* 41). 'What is government itself but the greatest of all reflections on human nature? If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary.' (*Federalist* 51).

This was thus Whig theory but of a traditional and conservative kind. He would not assume, as did Hobbes, that the absolutism of Leviathan was the price to pay for self-preservation. But he would not move towards the aristocratic, plutocratic, and centralizing policies of Hamiltonian federalism either, when they ran counter to what he considered to be the interest of the people and their republican rights. Madison rejected the views of older republicans like Machiavelli and certainly of 'democratic' theorists like Rousseau. Just as he refused to look to the notion of a disinterested monarch or of an aristocracy, since neither could in practice be above the battle, just as his realism led him to reject the idea of the 'General Will', so he poured an equal scorn on concepts of a 'Legislator' or a 'Dictator' who would magically resolve the people's problems and then, equally magically, ride away into the sunset. Even a Cromwell, he might have said (but did not), acquired ambitions of his own, if not for himself, then for his posterity.

The foundation of the 'American science of politics', then, was a hard-headed and, we would now say, 'realistic' view of human nature. Rejecting the belief of a few of the more radical thinkers of the European Enlightenment in the perfectibility of man, the Founding Fathers were virtually unanimous in their distrust of the human animal. Man was an imperfect creature whose actions and beliefs were often shaped by passion, prejudice, vanity, and

self-interest, and whose boundless ambition, though sometimes diverted into socially desirable channels by his craving for public approval and fame, made it difficult for him to resist the temptations of power and vice. Man's feeble capacities for resistance thus turned power and vice into corrupting and aggressive forces, the natural victims of which (in the public arena) were liberty and virtue, those central pillars of a well-ordered state. Long ago Horace White observed that the Constitution of the United States is based upon the philosophy of Hobbes and the religion of Calvin. It assumes that the natural state of mankind is a state of war, and that the carnal mind is at enmity with God. The men who drew up the Constitution in Philadelphia during the summer of 1787 had a vivid Calvinistic sense of human evil and damnation; they believed with Hobbes that men are selfish and contentious. They were men of affairs, merchants, lawyers, planter-businessmen, speculators, investors. Having seen human nature on display in the market-place, the courtroom, the legislative chamber, and in every path and alleyway where wealth and power are courted, they felt they knew it in all its frailty. To them a human being was an atom of self-interest. They did not believe in man, but they did believe in the power of a good political constitution to control him. Virtue was an important word. Everyone of Madison's teachers was either a clergyman or a devout Christian layman. The concept of the worth of the individual soul, like the faith in the republic itself, came out of a Christian and a classical tradition.

The government to be set up, however, was republican. In *Federalist* 43 he defended the provision of the Constitution which authorizes Congress 'to guarantee to every State in the Union a republican form of government'. Nor should it casually be overthrown, or changed with frequency. Stability was as important as liberty itself. As a realistic interpreter of human behaviour, as the practical builder of a constitution, he had to dissent from Jefferson's conceit of a political change every generation, whether that meant nineteen years or thirty-four. 'Stability in governments is essential to national character . . . as well as to that repose and confidence in the minds of the people, which are among the chief blessings of civil society' (*Federalist* 37) and, as events would show, he would oppose rights of nullification or secession. The centralist, the nationalist, and the conservative in him was dominant.

If he was both contractarian and conservative, he was also, thirdly and most important, the pragmatist, the problem-solver. Government is set up to curb faction and to curb man's capacity for error and for sin, and this means that it must (1) be balanced,

(2) have its powers separate, though overlapping, (3) be extensive, (4) be representative, and (5) be strong. In his letters of 1786 and 1787 to Jefferson, Washington, and Randolph he developed his practical ideas on constitutional reform: he wanted a stronger national government—and he called it ‘national’—with the right to regulate trade, and with a negative on the legislative acts of the states, ‘in all cases whatsoever’. He wanted it to have the right to raise money, by an impost on trade. He wanted a national judiciary with supremacy over state courts; he wanted a bicameral legislature, with a seven-year term for senators, a council of revision, and an executive, about which, in 1787, he admitted that he had ‘scarcely ventured’ to think in detail. He sought ‘tranquility’ within each state, the right of coercion against delinquent or fractious states, and, ‘to give a new system its proper validity and energy’, he wanted the new charter ratified by the people and not merely by the legislatures of the states. Moreover, when the Founding Fathers met, they would meet in secret. Open government openly arrived at was a twentieth-century not an eighteenth-century illusion; it was an invitation, Madison knew, to disaster. The Constitution, of which he was the main shaper, was the work of a few—all men, and not one a journalist.

The verdict? A modest man, with no presence and little money who by studying and by reason constructed—in all its omissions—the most intricate and longest-surviving Constitution in human history. Its very restraint and its brevity may have helped to allow it to be the acceptable form of government for three million farmers on the Atlantic coast in 1787 and today for 230 million people of every race and colour from coast to coast. He knew what was important: balance, separation of powers, property rights—and federalism. He came to his conclusions from his own reflection and experience. His reading could do little for him here. Past revolutionary and republican theory had guided the Founding Fathers when it came to the defence of the revolution, the establishment of independence, and the temporary ordering of their own state and national affairs. But now, farsighted republicans were disturbed by the unhappy thought that the Articles of Confederation were not adequate to the task of establishing a more enduring republican union. On the problem of establishing republican government in a large state, previous republican thinkers were either silent or pessimistic.

Even the great classical models were silent. Aristotle had little or nothing to say about a republican federal state, and Madison

mentions him only once. He could derive from his reading of the classics a healthy respect for the farming class as the backbone of a polity, but he could have found little or nothing about a federal polity comparable to the actual political situation he faced in America. He may have found in Cicero a conception of natural law which had become so deeply embedded in western thought that it had become a basic premise of constitutional theorists in the sixteenth, seventeenth, and eighteenth centuries. Cicero spoke eloquently of a true law which men might know by reason, an eternal law which 'summons men to the performance of their duties', an unchangeable law which 'restrains them from doing wrong', a law which cannot morally be invalidated by human legislation, a higher law to which the state and its rulers are subject.<sup>1</sup> But, again, there was in Cicero and in most other advocates of natural law, nothing on the problems of a large federal commonwealth. And Cicero, like Plato, Machiavelli, and Rousseau, in any case gets no mention at all. Moreover, he was empiricist not dogmatist. If he was sometimes zealously committed to key ideas, he never insisted that a theory for democratic Greece or republican Rome or constitutional England could be transferred automatically to popular government in America. Aristotle, Machiavelli, Calvin, Harrington, Locke, Montesquieu might suggest 'lessons', but they did not have solutions. He had to devise a theory that would take into account a large expanse of land, the spirit of liberty and equality, the prevalence of local self-government, the widespread distribution of property, an enterprising economic spirit, a deeply rooted constitutional ethos, and some kind of federal division of powers. He made it work not because of *Federalist* 10, or new states having parity with the original thirteen, but because he rested a strong central government on acceptance by the people in the states; by making it national and Federal. And the way of life it secured was prosperous enough to give the people—in all their greed and ambition, and their proneness to faction, which he fully recognized—the will to make it work. This is more than can be said for any *philosophe*. He was the rarest of beings, a very successful and creative politician, or, more accurately, a political mechanic in what he himself called 'a workshop of liberty'.

<sup>1</sup> Cicero, *On The Commonwealth* (Columbus, Ohio, 1929 ed.), pp. 129, 215–16.