

THE MADISON PROJECT
Conversations of Note

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A stylized, dark blue silhouette of James Madison's profile is positioned on the left side of the page. The background is a deep blue with several five-pointed stars scattered across it. A vertical red line is located to the left of the main title text.

HONORING JAMES MADISON'S FIRST AMENDMENT LEGACY

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<https://www.mediainstitute.org/the-madison-project/>

Madison is embedded in our daily lives. The epicenter of advertising is Madison Avenue in New York City. When we want to see the Knicks or the Rangers, and more recently Billy Joel play, where do we go? Madison Square Garden. The first modern luxury hotel in Washington, D.C., opened in 1963. President John F. Kennedy was there as The Madison Hotel welcomed its first guests.

That brings us to Dolley and James Madison, who are the namesakes for many of these institutions, and countless other sites and cities. Dolley Madison had been married previously – her name had been Dolley Todd – and she was 17 years younger than James Madison. He ultimately went to an analog version of an online dating site at the time – Aaron Burr. It was Burr who introduced Dolley Todd to James Madison. And of course, Aaron Burr later turned out to be the person who murdered another of our nation’s Founding Fathers, Alexander Hamilton.

Let’s consider Dolley Madison first. We know that she loved to serve and eat ice cream with others. But part of this hospitality was because she was the first great social hostess in Washington, D.C. One of the great legacies that Dolley

Madison left us (hopefully to be revived) is the spirit of bipartisanship. Once upon a time, we had an extremely partisan environment nationwide. In fact, Thomas Jefferson refused to meet with anyone who was not in his political party. There also was a lot of violence. Aaron Burr shot and killed Alexander Hamilton, as noted, and there were frequent duels and physical altercations over politics by other leading figures then.

Dolley Madison had a novel idea. “Can we bring all of these people together so we can begin to have a civil and constructive dialogue?” Unfortunately, she is not with us today. But hopefully, that expressed spirit can be revived at some point in time, given the obvious great rancor in our country now between our political parties and political tribes.

What is also interesting about Dolley Madison is that she was the first First Lady of the United States, as we understand the duties of that position today. Thomas Jefferson had been widowed and did not have a partner. Thus, Dolley Madison, who was not married to him, essentially said, “I will volunteer to be your hostess when you have official events.” She really trained for that role.

Thomas Jefferson was the third president and was succeeded by James Madison.

So when Madison was elected, Dolley Madison officially became the first First Lady of the United States. Moreover, she is the only First Lady in the history of our country who was given an honorary seat on the floor of Congress, because she was such a powerful political figure. Put simply, Dolley Madison played a critical and important role in early American history.

James Madison was small in stature but very big in ideas. He was one of the seven Founding Fathers and had a critical role to play in the development of the U.S. Constitution, and ultimately the Bill of Rights. What is interesting about Madison is that he truly was a team player. In fact, he wrote: "The Constitution is not like the fabled Goddess of Wisdom, the offspring of a single brain. It ought to be regarded as the work of many hearts and hands." Admirably, he wanted to share credit with his colleagues and peers.

Madison initially opposed the idea of the Bill of Rights, however. Ultimately,

Thomas Jefferson persuaded him that citizens needed greater protection than the original Constitution offered. Madison responded, essentially saying, "I will pick up that mantle and I will develop these amendments to the Constitution." Those first 10 amendments are what we call the Bill of Rights.

Perhaps just as critically, he wrote 29 of the 85 essays that we know as *The Federalist*

Papers – an incredible resource articulating the philosophy of how our Constitution and our Bill of Rights were developed. In *Federalist Number 9*, which was one

of the 29 essays that Madison wrote, he said, "The people are the only legitimate fountain of power. And it is from that, that the constitutional charter, under which the several branches of government hold their power, is limited."

Madison was concerned about the potential overreach of government, which is reflected in the Bill of Rights. In essence, how do we build a wall between

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government and the people to prevent the government from going over that wall and encroaching on their personal liberties?

The 45 words Madison wrote for the First Amendment were precise and elegant expressions of five essential freedoms. “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble and to petition the government for a redress of grievances.”

Unfortunately, James Madison would be dismayed if he were with us today. There now are sophisticated ways to measure how people perceive the First Amendment and its notions of free press and free speech. It’s worthwhile to review the results of several recent national surveys for a flavor of how Americans envision the First Amendment in contemporary times.

According to a 2022 survey by the Knight Foundation, 89% of adults see freedom of speech as essential to democracy. This is obviously good news; in comparison to

some other data below, the contrast will be evident in their dramatic downward turn.

For example, a survey in July 2023 by the APM Research Lab found that only 45% of adults believe that democracy, while somewhat problematic, is the best system of government to have in place. The Knight Foundation in 2022 found that only 59% felt that news organizations should not face government censorship when putting out the news. Sobering numbers, for sure,

with more dire results continuing this year.

Several major surveys have been released in 2024, principally by the Foundation for

“**Only 25% of Americans believe freedom of speech is secure.**”

Individual Rights and Expression (FIRE), a leading national nonprofit organization that is involved in First Amendment advocacy and research. FIRE found in its most recent survey that only 25% of Americans believe freedom of speech is secure. Sixty-nine percent believe it is off track and headed in the wrong direction.

The results from college campuses are just as sobering. Another FIRE survey, conducted in conjunction with the Cato Institute in early 2024, found that only 37%

of students think it is never acceptable to shout down a speaker. Only 55% think it is never acceptable to block other students from hearing the speaker. And a growing number – 27% in that survey – believe that violence can be an acceptable way to stop a campus speech. These all are very alarming numbers.

An additional aspect of reliable survey research merits attention. It hits closer to home with respect to media and communications enterprises. In 2023, Gallup found that only 32% of Americans trust the news media and 39% have no confidence at all in the news media. The comparison with 2016 is quite dramatic. At that point in time, 27% had no confidence. Now, as noted, this number has risen to 39%.

In terms of the current political climate assessed in this survey, although 58% of Democrats trust the news media, only 11% of Republicans and 29% of Independents do. Indeed, there is an extremely polarized environment with respect to trusting the news media. A survey by the respected

Pew Research Center in 2023 found that 71% of respondents thought news and information was being made up and was a big problem for our country.

In light of all this, it is timely to ask: “WWJMD – What Would James Madison Do?” Madison was not just a great constitutional architect; he also was a media mogul in his own time. Madison founded a newspaper called the *National Gazette*. He also founded the first

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political party, called the Democratic Republican Party. He then had the *National Gazette* essentially act as the media resource for the party. He used the *Gazette*

as a way to advance the ideology of the Democratic Republicans.

In some ways, the *National Gazette* was the Fox News or MSNBC of that era. Madison felt it was important and appropriate for media outlets to have sharp ideological distinctions. He was very proud of being able to start a publication, not with the idea of being fair and balanced, but with the idea that other publications would launch and have opposing views. He believed

strongly in the idea of individual freedom – that all people should have the ability to hear information from many sources and to make decisions as a society. In 1791, when the Bill of Rights took effect, he wrote an essay called *Popular Basis of Political Authority*. “Public opinion sets bounds to every government,” he observed, “and is the real sovereign in every free one.”

It’s not difficult to imagine what James Madison might say if he were with us now.

He would recognize that media and communications companies, whether individually or through trade associations, are critical in

both restoring the confidence in our cherished First Amendment values, and improving and enhancing trust in media. This is especially important this year, as Americans return to the ballot box to elect our 47th president. Public opinion is essential, and media help drive public opinion.

According to FIRE, in 2023 only 40% of Americans could name one right protected by the First Amendment. Freedom of speech is the right respondents named

most often. But it should be noted that the number of those survey respondents who realized freedom of speech is protected under our Constitution only was 63%. Freedom of the press was named by a mere 20%. This gives a sense of why media and communications companies need to play a critical role in helping shape and improve public opinion around free speech and free press.

What might be done to heighten public

awareness of the First Amendment? First, it would be beneficial if every media company and associated trade association put those 45 words on its website, or had

a pop-up there, and also put them on its social media platforms.

Many Americans have never seen what the First Amendment actually looks like. We all know how to recite the Pledge of Allegiance, but most of us don’t know how to recite the First Amendment. Visualizing it again and again can help everyone see how powerful those words can be when they’re put together.

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It also would be useful if media companies and trade associations went to the public libraries in their local communities and said, "We will make an attractive banner with the words of the First Amendment that will be hung at the entrance for patrons to see as they walk into the library."

Libraries would be happy to accept this gift and proud to display it. After all, the First Amendment covers the right to read everything that is in a library. In addition, media companies and associated trade associations could donate a collection of books about free speech and free press to individual local libraries. When children and other patrons came in, they would see a prominent display of First Amendment books on a dedicated bookshelf. Of course, we are now in the era of e-books, so these books could be made available digitally to a wide audience that may access library resources remotely rather than in person.

Those with longer memories may remember that in 1976, CBS pioneered something called the Bicentennial Minute to commemorate our country's 200th anniversary. CBS committed a minute of valuable airtime throughout the year

so that a celebrity or someone in news or sports could speak briefly about our Constitution and our country's history.

The year 2026 now is fast approaching, when the 250th anniversary of our nation's founding will be celebrated. What if once again there were new efforts to produce the equivalent of those CBS Bicentennial Minutes? Beginning in 2026, there could be a new one-minute video that's posted, produced, or perhaps sponsored by media organizations every day – in mass media and on social media alike. Again, this initiative could help raise public opinion and help reverse the downward First Amendment course that the surveys are showing with alarming consistency.

Perhaps most importantly, in media organizations today, there are new generations being hired, along with intergenerational groups of people working together there. Alas, it would be too much to assume that there is a high level of knowledge of, or appreciation for, the First Amendment among them.

Internally, media companies and associated trade associations need to do more in

terms of education and discussion around the First Amendment. Their employees are the shapers of public opinion, which makes staff education exceedingly important. No field has benefited more from the First Amendment than media and communications. It is in the business interest of media companies and trade associations – as well as a real civic responsibility as stewards of free speech and free press – for them

to visibly support the First Amendment strongly in multiple ways.

Despite the gloomy statistics, there clearly still is room for optimism. If we devote proper attention and focus in this area, we all can play a part in keeping alive the profound lessons about the power of the First Amendment and its enduring values that James Madison left behind.

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This essay is adapted from his remarks delivered at a Media Institute Communications Forum luncheon in Washington, D.C., on May 16, 2024.

July 2024



THE MADISON PROJECT

The Madison Project: Free Speech and Press in American Democracy is a timely and much-needed assessment of the impact of free speech and press on the future of democracy, at a time when democracy itself has come perilously close to the brink in America. The Madison Project will offer distinctive insights, assess challenges and threats to free speech and free press, and chart a course forward to maintain these essential freedoms as the bulwark of our democracy.

The Madison Project is underwritten by organizations with an interest in media and communications, the First Amendment, and the preservation of American democracy. Initial support for The Madison Project has been provided by **Verizon, LG Electronics,** and **Wiley Rein LLP.**

For more information about The Madison and sponsorship opportunities, visit <https://www.mediainstitute.org/the-madison-project/> or contact Richard T. Kaplar at kaplar@mediainstitute.org.

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