



## James Madison and Limited Government

One of the most illustrious figures enshrined in the pantheon of America's founding generation is James Madison. He is widely regarded as the "Father of the Constitution" not so much for his hand in the style or structure of that document, but rather for his dedication to the study of the timeless principles of republicanism that undergird the clauses thereof.



The number of articles, reports, and blogs that cull quotes from James Madison in defense (or offense) of this or that controversial point of Constitutional theory is staggering. A search of Google News using the words "James Madison Constitution" renders 265 such citations. Predictably, however, few of those authors recruiting Mr. Madison to their cause actually heed Cicero's advice and look deeper into the "principles that inspired" Madison's so oft-quoted statements.

James Madison is a historical figure with a legacy that is immeasurable, even by the number of hits on a Google search. His Constitutional position, however, is less diaphanous and has recognizable metes and bounds staked out by the man himself. Two of the stoutest planks of the Madisonian political (and thus Constitutional) platform are first, that the government established by the Constitution of 1787 is a government of limited power; second, that the powers granted by the people to that government are specifically enumerated within the four corners of that same founding charter.

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### **Limited Powers of Government**

Nearly two centuries before Ludwig von Mises and Friedrich Hayek popularized the principles of Austrian economic theory, James Madison was espousing the same view, call it the Virginian economic theory. As stated very plainly in the Declaration of Independence, "Governments are instituted among Men, deriving their just powers from the consent of the governed." This brief explication of the rights of Americans restrains legitimate government with two very powerful fetters: the ends of government which must be to secure our God-given rights; and the means it uses to achieve that end, which must be consented to by the people.

As Madison and his fellows understood it, government exists simply to secure the rights with which nature and nature's God had endowed us. The wide plain of human existence was to be unhemmed by fences of government intervention. We are granted the unalienable right to work out the fullness of our lives, liberties, and pursuits of happiness. Government neither creates nor assigns rights and obligations, its sole function is the protection of those rights via the powers afforded it in the



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Constitution.

This was James Madison's concept of a government with legitimate ends and means and it was that concept that informed the diminutive statesman as he left his home in the Blue Ridge Mountains to attend the Constitutional Convention in Philadelphia in the summer of 1787.

While serving as one of Virginia's members of the House of Representatives in the First Congress, the body he helped create, Madison made very clear the application of his political science on the subject of commercial regulation by Congress:

I own myself the friend to a very free system of commerce, and hold it as a truth, that commercial shackles are generally unjust, oppressive and impolitic — it is also a truth, that if industry and labor are left to take their own course, they will generally be directed to those objects which are the most productive, and this in a more certain and direct manner than the wisdom of the most enlightened legislature could point out.

Couldn't be much plainer. Nearly two centuries before Ludwig von Mises and Friedrich Hayek popularized the principles of Austrian economic theory, James Madison was espousing the same view, call it the Virginian economic theory. Despite Madison's (and Mises and Hayek's) sagacious perspectives, the social planners of today insist that there are congresses and presidents that have a better bead on how to make the world right through managed manipulation of the marketplace by the hallowed hand of an unlimited government.

The so-called "liberals" (Madison would have described himself as a liberal) of today believe for this reason or that, that a good government may rightfully disregard the limitations of legitimacy as long as their purposes are to broadcast prosperity throughout the population. There is no element of human existence that is without the purview of government regulation: education, farming, manufacturing, health care, insurance, banking, etc. all have a place in the universe of government control, according to these modern liberals.

### **Enumerated Powers and the Chains on Leviathan**

James Madison was not a theorist only. He worked day in and day out in Philadelphia (and beforehand for months in Orange) hammering out the practical applications of legitimate government. The chief expression of this doctrine is enumerated powers.

The enumeration in the Constitution of specific powers delegated to the federal government is the cornerstone of American political theory and of the Constitutional Republic established in 1787.

The basic definition of enumerated powers is that the best limitation on power is to not give it in the first place. Powers, as understood by Madison, Jefferson, *et. al.*, were only legitimate if they had been granted to the government by the people and written specifically in the document through which the governed gave life to the government — the Constitution.

"We the People" says the Preamble to the Constitution, established this government. All powers assigned to the government in the document were originally (and ultimately) held by the people. No original, organic, or self-possessed powers existed in the government. The government is an artificial creation of the people and is powerless but for their endowment of a specific roster of powers to it.

"Herein granted" is a phrase that follows quickly after the Preamble. In Article I, the people proclaim: "All legislative powers herein granted shall be vested in a Congress...." Those two words completely encompass the principle of enumerated powers. There are, it seems, a limitless variety of legislative



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powers, but those that may be executed by the federal government (specifically Congress) are few, limited, and written down “herein.” Outside of those powers, the people are still sovereign.

Returning to Madison, we take final note of three examples of his rigid hewing to the twin pillars of legitimacy and enumerated powers upon which he helped erect the temple of American government. In the *Report of 1800*, Congressman Madison wrote:

In all the co-temporary discussions and comments, which the Constitution underwent, it was constantly justified and recommended on the ground, that the powers not given to the government, were withheld from it; and that if any doubt could have existed on this subject, under the original text of the Constitution, it is removed as far as words could remove it, by the 12<sup>th</sup> amendment [now the present 10<sup>th</sup> Amendment] now a part of the Constitution....”

Some six years earlier, when examining a bill proposing the appropriation of money for relief of political refugees from Santo Domingo, James Madison stood firmly, once again, in defense of the principle of enumerated powers. He could not, Madison stated, “undertake to lay [his] finger on that article of the Federal Constitution which granted a right to Congress of expending, on objects of benevolence, the money of their constituents.”

Finally, in 1817, President James Madison vetoed a measure passed by both houses of Congress that funded a program of comprehensive improvements to infrastructure. In a statement accompanying his veto, Madison set forth his objections thereto (as required by Article I, Section 7 of the Constitution), declaring that “the legislative powers vested in Congress are specified and enumerated in the eighth section of the first article of the Constitution, and it does not appear that the power proposed to be exercised by the bill is among the enumerated powers.”

Sadly, we recognize a dearth of leadership of the caliber of James Madison in the Capitol and the White House of the 21<sup>st</sup> (and earlier) Century. In the name of regulation of commerce and the general welfare, Congressmen and presidents (of both parties) have encircled the entire arena of human existence within legislative walls. Walls the bricks and mortar of which are formed from the scree of our once legitimate, limited government.

For more information, read the fine collection of essays published as *James Madison and the Future of Limited Government*, edited by John Samples.



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