



Written by [Joe Wolverton, II, J.D.](#) on May 15, 2009

Founders Would Be Displeased With Obama

The tremendous seismic activity reported throughout Virginia lately was not the result of an unpredicted earthquake, rather it was the reverberations that were caused by the Founding Fathers spinning in their graves after reading the recent article by Michael Anthony Lawrence, a professor of constitutional law at Michigan State University. In that article published May 11 in the Detroit Free Press, Professor Lawrence unashamedly invokes the sacred names of James Madison and Alexander Hamilton in a most incredible and inexcusable manner. How so? In the mold of his hero, President Barack Obama, Professor Lawrence audaciously declares that Messrs. Madison and Hamilton would “find a lot to like about President Barack Obama’s first 100 days in office.”



Shocking as that assertion is to those who have studied the words of these great men and revere the contributions they made to the establishment of the United States of America as a beacon of liberty and example of republican principles, Professor Lawrence is apparently serious in his contention. To support this mad thesis, he culls a handful of quotes from *The Federalist Papers* (85 letters written to New York newspapers explicating various constitutional principles and urging ratification of the Constitution), most of which were written by Madison and Hamilton. He sprinkles his brief essay with examples of actions taken by the Obama administration that would, in Professor Lawrence’s (learned?) opinion be “welcomed” and “admired” by the aforementioned Founding Fathers were they to take a “magical” journey through time to contemporary America.

For the purpose of this article, let us take a not-so-magical trip to the library, take a copy of *The Federalist Papers* from the shelf, and evaluate the claims made by Professor Lawrence. I propose a brief refutation of his assertions based on the text of *The Federalist Papers* (confining myself to the very ones he quotes), and I will simultaneously correctly propound the positions of James Madison and Alexander Hamilton as regards the behavior of President Obama and his administration and the constitutionality thereof. I reiterate that I have no other purpose than to restore and reaffirm the enduring principles of *The Federalist Papers* specifically, and our glorious Constitution generally.

First, Professor Lawrence has taken a few phrases from *The Federalist* and performed a contextomy with the delicacy, grace, and precision of a chain saw. Moreover, as the saying goes, “Text, without context, is pretext,” and the apparent pretext for Professor Lawrence’s mutilation of the letter and the spirit of *The Federalist* is to coat the image of President Obama in the gold patina of Founding Father approbation. This is, after a fashion, a compliment to the Founders and recognition of their primacy in matters of constitutional interpretation and of their unparalleled understanding of the principles of liberty. However, to take the inspired words of these men and wrest them to one’s own narrow and



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sycophantic purpose is shameful and unworthy of a man of Professor Lawrence's academic distinction. Professor Lawrence begins his vicarious praise of the president by quoting Alexander Hamilton from Federalist No. 70: "Energy in the executive is a leading character in the definition of good government." Professor Lawrence then takes Hamilton's statement and uses it as proof that Hamilton (and somehow Madison, as well) would approve of President Obama's "audacious domestic agenda." There are obvious, abundant, and gaping holes in this claim. To patch these holes, we must begin by spreading the caulk of context liberally and fairly around the places whence Hamilton's words were dislodged from their original meaning and intent.

In *The Federalist*, No. 70, Alexander Hamilton sets about trying to illustrate why the United States would be better served with an "energetic executive" as opposed to a "feeble executive" as was the case under the impotent government established by the Articles of Confederation. On that note, it must be remembered that one of the two stated purposes of *The Federalist* was to criticize the "unequivocal experience of the inefficacy of the subsisting Federal Government." That government was not endowed with sufficient power to hold together the union and preserve the felicity of freedom so freshly won in the War for Independence.

To better understand Hamilton's position, one may imagine, a scale of energy in the executive with one end being the indecisive, hamstrung sort existing under the Articles of Confederation ("feeble") and the other end being an absolute dictatorship. Along that spectrum there are various shades of the use of power, and simply because a president is less than an outright autocrat is not to assume that he is, therefore, the archetypical "energetic" president envisioned and recommended by Alexander Hamilton. In fact, Hamilton would doubtless reject as ideal a chief executive who within three months of taking the oath of office had demonstrated how beguiled the American electorate had been in investing their "interests...to hands so unqualified, and so manifestly improper."

Finally, *The Federalist*, No. 70, was never intended, as can be easily gleaned from even a casual perusal of the letter itself, to enumerate the attributes of a perfect executive, rather, Hamilton was using the opportunity for the sole and well-tailored purpose of explicating the desirability of a single executive over a council or multi-headed executive. Of note, however, is one of the traits of an "energetic executive" named by Hamilton just after the quote cited by Professor Lawrence. This energy, so vaunted by Professor Lawrence, is to be used in "protection of property against those irregular and high handed combinations." One wonders whether President Obama's energetic nationalization of the banking and auto manufacturing industries is consistent with the protection of property as contemplated by Alexander Hamilton.

Next, Professor Lawrence drags James Madison's unsullied reputation into his fantasy by informing his readers that Madison would "especially ... appreciate Obama's understanding of the Constitution's limitations on executive power, as shown in his early executive orders repudiating the use of torture at Guantanamo Bay and in CIA secret prisons." Specifically, Professor Lawrence cites *The Federalist*, No. 47, as Exhibit Number 1 in his case for Obama's enshrinement in the pantheon of presidential immortality. As with the last example proffered by the professor, let's look a little more closely at the words and context of Madison's essay.

In *The Federalist*, No. 47, James Madison (deservedly known as the "Father of the Constitution") sets forth his seminal instructions regarding the "distribution of this mass of power among its [the federal government as proposed in the new Constitution] constituent parts." How does President Obama's executive order disavowing admittedly shameful torture evince an understanding of Madison's warnings



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of the dangers of an executive “go-it-alone approach”? Is the executive order not the very definition of “go-it-alone”? President Obama has demonstrated that he is very comfortable with issuing executive orders to invoke extraconstitutional powers — consider, for instance, his executive order reinstating the policy of funding family planning and abortion overseas. Regardless of what the subject is, a president with a level of understanding described by Professor Lawrence would faithfully execute laws passed by Congress as opposed to “legislating” via executive orders. And of course, he would use his powerful influence to encourage Congress to pass necessary and proper legislation including laws against torture.

What’s more, there is little space for debate that James Madison, as clearly delineated in *The Federalist*, No. 47, itself, prefers a president who understands and comports himself in compliance with the ancient and viable political dogma that “the legislative, executive, and judicial departments ought to be separate and distinct.” To do and undo by fiat, by whatever euphemistic name you wish to call it, is not in keeping with that separation and balance espoused by James Madison. Furthermore, in that same letter, Madison unequivocally declares with characteristic clarity and acuity:

No political truth is certainly of greater intrinsic value or is stamped with the authority of more enlightened patrons of liberty than that on which the objection is founded. The accumulation of all powers legislative, executive and judiciary in the same hands, whether of one, a few or many, and whether hereditary, self-appointed or elective, may justly be pronounced the very definition of tyranny.

Obama’s handling of legitimate crises (e.g., the economy) and the manufacture of others (e.g., environment) are so unilateral and in so haughty disregard of the Constitution’s separation of powers as to make one wonder if Professor Lawrence has read the documents from which he extracts his basis for the apotheosis of Barack Obama. Professor Lawrence would be well-served and of greater value to his students and the citizens of this republic if he would refresh his memory as to the strict adherence Madison, Hamilton, et al. demanded to the irrefutable “political maxim” that powers must be separated to be legitimate and to be bulwarks against man’s natural bent towards the tyrannical.

The third surrogate seal of approval placed by Professor Lawrence on the deeds of Obama’s embryonic presidency is with regard to the president’s purported understanding that “the government must be held accountable to the people.” He offers quotes from *The Federalist*, No. 37 (penned by James Madison), and *The Federalist*, No. 78 (one of Hamilton’s contributions), in support of his thesis. Both instances of citations from *The Federalist* are about republican liberty and how that liberty is justly “derived from the people” (*The Federalist*, No. 37) and how the government (in this case speaking of the legislative and judicial branch) is subordinate to the people upon whom it is dependent for its existence (*The Federalist*, No. 78). Interestingly, in neither of these two missives are the authors describing anything to do with specifically with the executive branch. For his part, James Madison is allaying fears that the work of the Constitutional Convention had produced a federal government that failed to combine “the requisite stability and energy in Government, with the inviolable attention due to liberty, and to the Republican form.” Whereas Hamilton was focused on a defense of the judicial branch as established under the proposed Constitution.

Again, however, not letting context or the authors’ stated aims stand in the way of his praise of the president, Professor Lawrence inexplicably drafts Madison and Hamilton into the Obama cheer squad by declaring that President Obama “understands well” the Founders’ words as witnessed in his decision to release torture memos and his “reversal of the Bush administration policy of hiding information.”



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There is nothing apropos of this comparison at all extant in the documents cited by Professor Lawrence. If anything, a disinterested reader, one without what Madison in *The Federalist*, No. 37, calls a “disposition to find or magnify faults” or a “predetermination to condemn” would discover that Obama and those carrying the [fasces](#) for him have embarked on a plan (audacious? Yes, and terrifying to lovers of liberty) to brick-by-brick dismantle the walls separating the three branches of government, to deprive the citizens of the United States of their God-given right to property, and to unite in one all-reaching, ever-grasping pair of hands, the three distinct powers of government wisely divided and restrained by the authors of our Constitution. This is the head-shaking reality that is diametrically to the farcical Utopia inhabited by Professor Lawrence and his ilk and graciously ruled by the benevolent President Obama.

Indeed, ironical as it is in light of Professor Lawrence’s hagiography and the witnesses he erroneously invokes therein, as President Obama trades his fame, adulation, and the public’s fear of concocted catastrophes for an executive branch of unmatched, unfettered, and unstoppable potency, he betrays either his ignorance of or disregard for the “best commentary on the principles of government ever” (*The Federalist Papers*) — and more importantly, the Constitution he swore, only just over 100 days ago, to “preserve, protect, and defend.”

To conclude, therefore, I implore you, Mr. Madison and Mr. Hamilton, with all the zeal and admiration you most assuredly merit, please, most noble gentlemen, do yourselves a favor: stay in Heaven and don’t take that “magical” journey through time only to witness the hell that is being made of your handiwork.



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