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## JAMES MADISON AND THE FUTURE OF LIMITED GOVERNMENT EDITED BY JOHN SAMPLES

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Last year John Samples, director of The Cato Institute's Center for Representative Government, invited a dozen scholars to reflect on James Madison as "a font of ideas for the future." This year with the release on Independence Day of the subsequent articles, the general reader may invite himself as well. A salute to the 250<sup>th</sup> year anniversary of his birth, these brisk two-hundred-and-score pages celebrate the principled constitutionalism of this arguably most cerebral of Founding Fathers. Erected as the frame of government to shelter the infant twins of democracy and liberty and conduct the "great republican experiment" resolving whether or not men can govern themselves, Madison's constitutionalism bends, groans, and collapses under the weight of majoritarianism in this present age. This new compilation bends our minds toward the domestic recrudescence of self-government in all spheres—local, state, and federal—and its possible global application and diffusion.

On one level, the book is a catalogue of the several obstacles that have hampered the project of Constitutional Union historically, not a few of them improvidently engineered by Madison himself. The famous *Virginia and Kentucky Resolutions* which Jefferson penned and with which he inveigled a reluctant Madison to concur provided ammunition for later Southern Nationalists to justify their secession from and bifurcation of the government on the theory of the Union as a compact of sovereign states. Robert MacDonald observes in his essay "The Madisonian Legacy: A Jeffersonian Perspective" how the compact theory "made the union the handmaiden of its constituent parts," flattening the dual sovereignty principle and consequently attenuating those bonds between the states individually, among the states aggregately, and between the state and the nation constitutively.

In his *Memorial and Remonstrance Against Religious Assessments*, Madison posited the then-and-still controversial idea that government should take no cognizance whatsoever of religion. As elsewhere in the book, two articles tackle the topic. The redoubtable Walter Berns pens the first in which he remonstrates Madison for precluding any public role for moral education (almost always substantively religious in character), while contradictorily asserting "that any form of government will secure liberty or happiness without any virtue in the people is a chimerical idea." Michael Hayes constructs a defense of Madison, mining support from the intellectual sub-strata of conservative thought with reference to Oakeshott, Hayek, and Weaver.

As a book of ideas the work soars. One readily spies a multitude of topics over which to mull: Madison as the reconciler of Hamiltonian realism and Jeffersonian idealism, Madison as the proponent of deliberative democracy, Madison as market-associational visionary and progenitor of Hayek and his "Great Society," Madison as early Public Choice theorist, and sometime Madison as just-plain-wrong.

The articles shed ample light on his blind spots. In *Federalist* No. 10 he responded to Anti-Federalist qualms about a remote, self-aggrandizing state by hypothesizing that federal government checks the tyranny of majorities through a proliferation of factions. Even at the end of his life during the Missouri Compromise he supported the extension of slavery into the territories, purblind to the fact that the polity was polarizing not fractionalizing. The Civil War era tragically exposed the limits of constitutionalism (called a "compact with death" by abolitionist William Lloyd Garrison) when economic and cultural divergence sundered a people.

While Madison was keen to the threat posed by "passions of the majority" to order and liberty, he did not anticipate the emer-

gence of a political insider class and a rent-seeking government culture. John Samples' essay on direct democracy qualifiedly supports initiatives and voter referenda as a palliative to the modern disease of highly organized, efficacious factions. Insofar as they dislodge the barnacles of special interest from the ship of state by expressing the anti-government preferences of contemporary Americans, and are consistently checked by the Judiciary when they very rarely veer into violations of minority rights, initiatives and referenda are consonant with the ends of Madisonian theory (limited government) if dissonant with its means (representative democracy).

Judicial review also confounded Madison who saw it as a usurpation of the prerogative of the legislature which "was never intended and can never be proper." It devolved upon Hamilton in *Federalist* No. 78 to argue that the Constitution could limit government "in no other way than through the medium of the courts." The next one-hundred-fifty years of Constitutional jurisprudence would prove the latter correct, as the Court stood strong for property rights and limited government until directly threatened in its own sphere by FDR.

With commensurate brevity and insight the other essays deal with the general welfare and spending clauses, American Indians, and the negative cost-benefit ratio of legislating morality. One intriguing if prolix article is Tom Palmer's fifty page disquisition on group rights in which he leads the reader to an ineluctable if improbable conclusion desecrating the synonymy of political thought between radical Blacks' Rights theorists and reactionary John C. Calhoun, States' Rights champion nonpareil.

The book closes on two essays: one hortative the other speculative. The first by James Dorn exhorts developing nations East and West to temper their newfound democratic freedom with economic liberty, mindful of the failures of democratic socialism and Milton Friedman's proposition that "While economic freedom facilitates political freedom, political freedom, once established, has a tendency to destroy economic freedom." Constitutionalism binds political action for the short-term, requiring deliberative policy based on suasion rather than force and with a view to long-term benefits.

Finally, John Tomasi considers the permutations of Madisonian federalism in an international environment constituted of democratic, market states. He concludes that a sedulous review of Madison's precepts and proscriptions for a compound republic must precede the inauguration of any international federation with pretensions to power and legitimacy.

At the adjournment of the Constitutional Convention in 1787 a reporter asked Benjamin Franklin what had been created, a republic or a monarchy. The sage paused to reflect. "A republic," he concluded, "if you can keep it." John Adams admonished that "liberty once lost is lost forever." H.L. Mencken, elevating ornery pessimism to a level undreamt of even by the brooders of the Adams clan, despaired "Government is actually the worst failure of civilized man." Madison's transformation of government into our noblest triumph secures his recognition by posterity not as the wisest political theorist of his age (which he was) nor the greatest statesman (which he most certainly was not), but as the first and only alchemist ever to turn dross into gold.

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