

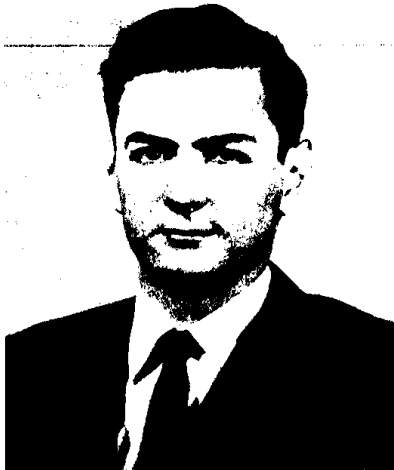
ALEXANDER LANDI

## Was the American Founding A Lockean Enterprise? The Case of James Madison

THE opinion that John Locke's writings shaped the political thought of America's founders has for some time been widely accepted by students of the republic's formative years. While this opinion does not have "biblical" status, it seems to have acquired the more unassailable authority of an old wives' tale: a story which the custodians of the national lore have repeated to one another so often that its truth is taken for granted.

The equation of the founders' political vision with Locke's has an important bearing on another opinion, shared by many critics and proponents of the American polity: that economic self-interest has been, from the outset, the central principle of the nation's public life. This belief has gained so much currency that Alexander Solzhenitsyn could casually remark in his letter to the Nobel committee, that one can't expect much from a people whose social foundation is the institutionalized clash of interests. Furthermore, some of the most sober and respectable students of the founding, such as Martin Diamond, likewise hold that the Founders had such a "low"—indeed, "Lockean"—vision of politics in America. Given such opinions, it might appear that any effort to foster the ethically good life in the United States would be futile since a wholly "modern" politics is so deeply rooted in America's political heritage. Wisdom and virtue must find a private sanctuary; they have no place in public life.

The thesis of this article, however, is



Alexander Landi

*Madison's politics . . . was more comprehensive than Locke's, and reflects a view of man and society more consonant with classical and medieval than with modern political theory. (A.L.)*

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that the above interpretation of the American founders does not apply to the "Father of the Constitution," James Madison. Madison's politics, I shall argue, was more comprehensive than Locke's, and reflects a view of man and society more consonant with classical and medieval than with modern political theory. To see this will require attention to the traditional elements in Madison's strictly "political" teaching, and to his understanding of the non-governmental aspects of public life. The effort is worthwhile, for to reduce Madison's politics to its Lockean component is to do him an injustice, and to deprive contemporary Americans of an important part of their political heritage. But let us first consider the case that can be made for viewing Madison as a Lockean.

### The Ends of Government

WE may begin with Madison's affirmation that "the object of government . . . is the happiness of the people."<sup>1</sup> In speaking of the means by which government may achieve its object, he often adverts to the securing or protection of safety, property, and the unequal faculties of acquiring property. It is such statements that lead Professor Diamond to infer that Madison's anthropology is roughly congruent to that of the modern political theorists, especially John Locke. That is, Madison views the good life in terms of the bourgeois "ideal" of comfortable self-preservation.<sup>2</sup>

Diamond's interpretation merits serious consideration. It is true that Madison's political writings emphasize the importance of securing safety and property. Also, he has a good deal to say about encouraging

commerce and promoting prosperity. In these respects, Madison seems much more in harmony with modern political thinkers than with the philosophers of classical antiquity and of the Christian centuries, for whom comfort and self-preservation are strictly subordinate to human excellence.

We must, however, bear in mind that Madison was writing as a statesman, and that a statesman may be constrained to emphasize the lower things, even if he is personally oriented toward the higher possibilities of human and political existence. Diamond himself, in speculating on the reasons why Madison "lowered the sights" of politics, speaks of considerations that are properly those of a statesman. Madison's reduction of the objects of government to the baser aspects of human happiness, Diamond contends, may be linked to his advocacy of popular government, inasmuch as popular government may require: a) that the desire for acquisition be given an outlet in economic activity, lest the republic be blown apart in the clash between avarice and envy; b) that the objects of government be reduced to a level commensurate with the capacities of most men.<sup>3</sup>

According to Diamond, then, Madison's public statements concerning the ends of government were written with a view to the popular notion of happiness. That is, he was writing as a republican statesman. His own understanding of political, let alone of human, happiness, need not have been as limited as that emphasized in his public writings.

In fact, there are many indications that Madison's vision of the good political life does not end with satisfying human appetites, but extends to the moral and intellectual well-being of citizens. Though he emphasizes safety and property as the objects of government, he at times gives evidence of a broader vision. For example, in his notes for an early speech against paper money, the young statesman attacked the issuance of unsecured tender as "vitiating morals"

1. *Federalist* 62, (New York: The Modern Library, 1937), 404.

2. Diamond's treatment of the political teleology of *The Federalist Papers* can be found in his "Democracy and *The Federalist*: A Reconsideration of the Framers' Intent," *American Political Science Review*, Vol. LIII, No. 1, 52-68. Also see his article on *The Federalist* in *History of Political Philosophy*, ed. Leo Strauss and Joseph Cropsey (Chicago: Rand McNally & Co., 1963), 573-93.

3. "Democracy and *The Federalist*," *ibid.*, 63-64, *et. passim*.

and "reversing the [end] of Govt. which is to reward best and punish worst." In similar vein, he was later to define government as: "An institution to make men do their duty."<sup>4</sup> Although Madison does not often mention the virtue of citizens as a direct object of government, he evidently considers that object proper to the political sphere. Furthermore, he shows a keen concern for the moral effects of legislation which may have other objects.<sup>5</sup>

That Madison considered the intellectual as well as the moral welfare of citizens to be among the proper ends of government is evidenced by his lifelong support of public education (which would include "moral instruction"). In a letter to a prominent Kentucky advocate of public education, Madison makes it clear that moral and intellectual virtue belong to the very substance of the human good *in their own right*, and are properly of the highest public concern in precisely that respect. "Academies, Colleges, and Universities . . . establishments which give to the human mind its highest improvements," Madison proclaims, "also give to every country its truest and most durable celebrity." He closes his endorsement of public education with the following peroration:

*The American people owe it to themselves, and to the cause of free Government, to prove by their establishment for the advancement and diffusion of Knowledge, that their political Institutions are as favorable to the intellectual and moral improvement of Man as they are conformable to his individual and social rights. What spectacle can be more edifying and more seasonable, than that of Liberty and Learning, each leaning on the other for their mutual and surest support.<sup>6</sup>*

4. *The Writings of James Madison* (New York: G. P. Putnam Sons, 1900-1910), II, 281; Jonathan Elliott, ed., *Debates in the Several State Conventions on the Federal Constitution* (Philadelphia: J. B. Lippincott, 1896), III, 394.

5. *Writings, ibid.*, II, 88; IX, 126-27.

6. *Ibid.*, IX, 107-08.

We may conclude that Madison's frequent use of Lockean language concerning the ends of government does not imply that he understood "the happiness of the people" simply in terms of comfortable self-preservation. It includes moral and intellectual virtue—which government may properly promote.

While the latter aspects of Madison's politics should be kept in mind, he more often speaks of government in narrower terms: it secures the persons and property of men, and thus emancipates their faculties. But here we should consider what Madison understood men's faculties to be emancipated for. The question becomes: of the many human activities which the American republic would liberate from the "despotism" of monarchy and aristocracy, which did Madison consider to be the most important? An answer is implied in his essay on property, which merits quotation at length:

*[Property] in its particular application means "that dominion which one man claims and exercises over the external things of the world, in exclusion of every other individual."*

*In its larger and juster meaning, it embraces everything to which man may attach a value and have a right; and which leaves to every one else the like advantage.*

*In the former sense, a man's land, or merchandise, or money is called his property.*

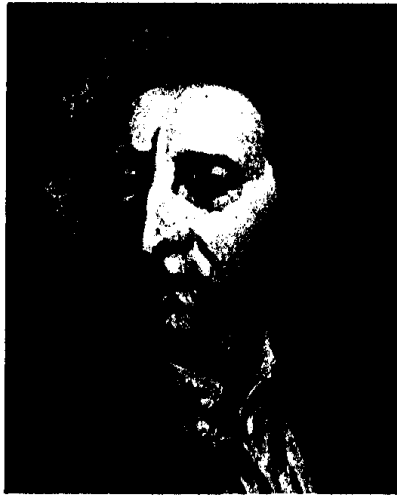
*In the latter sense, a man has property in his opinions and the free communication of them.*

*He has a property of peculiar value, in his religious opinions, and in the profession and practice dictated by them.*

*He has property very dear to him in the safety and liberty of his person.*

*He has an equal property in the free use of his faculties and the free choice of the subjects on which to employ them.*

*In a word, as a man is said to have a*



John Locke

Madison's frequent use of Lockean language concerning the ends of government does not imply that he understood "the happiness of the people" simply in terms of comfortable self-preservation. It includes moral and intellectual virtue . . . .

right to his property, he may be equally said to have a property in his rights.<sup>7</sup>

Clearly, the activities to be protected by government are several. Although Madison does not make their hierarchy explicit, he does give indications of their relative importance. Intellectual activity is accorded first mention. Religious activity is said to be "of peculiar value." Note that Madison does not indicate the importance of religion in subjective terms. He might have done so, for example, by speaking of the peculiar value which a man *attaches* to his religious opinions, etc. Instead, he writes that the rights pertaining to religious activities are of peculiar value—without reference to the subjective feeling of the given individual, who may after all be indifferent to religion.

Madison's treatment of religion is then markedly in contrast to that accorded the remaining species of "property": a man's

7. *Ibid.*, VI, 101.

property in "the safety and liberty of his person," and his "equal property" in freely employing his faculties on the objects of his choice. When Madison attributes importance to the latter kinds of property, he does so in the subjective sense: these aspects of a man's property are "very dear to him." Although Madison's language does not deny their objective value, neither does it accord them the highest dignity.

Thus, it would appear that Madison understood the most important activities of man to be those pertaining to the intellectual and religious life. The same emphasis is present throughout the essay on property, as in the following passage:

. . . the praise of affording a just security to property, should be sparingly bestowed on a government which, however scrupulously guarding the possessions of individuals, does not protect them in the enjoyment and communication of their opinions, in which they have an equal, and in the estimation of some, a more valuable property.

More sparingly should this praise be allowed to a government where a man's religious rights are violated by penalties, or fettered by tests, or taxed by a hierarchy. Conscience is the most sacred of all property; other property depending in part on positive law, the exercise of that, being a natural and inalienable right.

Madison's focus on intellectual and religious liberty is not restricted to this one essay; rather, it is a theme that appears very early in his writings, and to which he was to recur frequently throughout his life. For example, at the Virginia Convention of 1776 he proposed an affirmation of religious liberty that was to be incorporated into the sixteenth article of the Virginia Bill of Rights:

That religion, or the duty which we owe to our CREATOR, and the manner of discharging it, can be directed only by reason and conviction, not by force and violence; and therefore all

*men are equally entitled to the free exercise of religion, according to the dictates of conscience; and that it is the mutual duty of all to practice Christian forbearance, love, and charity towards each other.*

Finally, as evidence that Madison's devotion to religious liberty was neither transitory nor merely a matter of political expedience, consider the autobiography that he dictated in his old age. Nearing the end of a lifetime in which he had become justly celebrated as framer of the Constitution, Congressional statesman, party leader, President, and wise elder of the nation, the aging Madison took care, in his brief autobiographical sketch, to point with pride to the fact that his "first political act" was to change the religious freedom clause in the Virginia Bill of Rights from the concept of toleration to that of "natural and absolute right."<sup>8</sup>

What has been said thus far should establish that Madison considered religion and thought to be the most important kinds of "property" that government exists to protect. However, I do not mean to imply that Madison is the unappreciated St. Augustine of the eighteenth century. It would appear that he was rather insensitive to the highest aspects of religious life: holiness, communion with God, sharing in the very life of God. His understanding of religion seems to be restricted to the intellectual and the moral: religious convictions, the duties which men have to God, and their divinely ordained duties to one another. Consequently, in noting that Madison recognized a "peculiar value" in religion, perhaps no more can be implied than that he saw a special dignity in the moral and intellectual realms.

Still, we may conclude that Madison saw a hierarchy in the human activities to be emancipated under the American regime:

8. "Autobiography," 1832 (Library of Congress Manuscripts); reprinted in Douglas Adair, "James Madison's 'Autobiography,'" *William and Mary Quarterly*, Third Series, vol. ii, no. 2, 191-229.

the intellectual and the moral rank above the appetitive. It follows that if Madison more often than not employed Lockean language regarding the purposes of government, he did not correspondingly "lower the sights" of politics. On the one hand, he at times speaks of the moral and intellectual well-being of citizens as direct ends of government. And when speaking of the protection of property as the object of government, he refers not merely to a man's material possessions, but rather, "in its larger and juster meaning," to his acts as well. Among the activities protected (and emancipated) by government there is a hierarchy which exists even though government does not enforce it, and many emancipated men may not recognize it in thought or in practice. The most eligible of human activities are the intellectual and religious (perhaps better read: intellectual and moral). As a corollary, the end for which Madison understands man to be emancipated is not *primarily* the life of comfortable self-preservation: happiness is not achieved by mere acquisition. As Madison might well have said, to understand the human faculties, the protection of which is the first object of government, to refer solely to the faculties of acquiring land, money, and merchandise, would be to take the term in its "more narrow and less just meaning."

#### The Effects of Government

THOUGH the previous discussion shows that Madison's political vision was more comprehensive than Locke's, and reflects a view of the human good akin to the teachings of classical and Christian philosophy, it would be exaggerated to identify his politics with the pre-modern tradition. To go no further, why does Madison not say of government, as Aristotle did of the political community, that it is ordered to the good of man, especially to the highest good? There are several possible answers to this question: some will require recognition that when Madison speaks of the government, he says nothing of what he expects to oc-

cur in the societal aspect of the public life.<sup>9</sup> But first, let us look into Madison's expectations concerning the effects of his limited government. For it may be that Madison's constitutional model, like Aristotle's favored practical regime, the polity, could be expected to have effects beyond the formally stated ends of the regime.

To begin with, a government which secures the rights of property is positively related to the good life, in that it permits the achievement of excellence by those of superior faculties. That Madison understood the very possibility of excellence to be problematic, and that he viewed the protection of that possibility as inextricably linked to protecting property, is argued convincingly in Paul Eidelberg's *The Philosophy of the American Constitution*. Eidelberg's reasoning is based largely on a rendering of *Federalist 10*, which locates the source of faction in the diverse and unequal faculties of men:

*"The protection of these faculties," says Madison, "is the first object of government." Negatively stated, this means that the first object of government is to guard against any attempt to remove the latent causes of faction! It means that the first object of government is to guard against any attempt to bring about a massive uniformity of opinions, passions, and interests. But since the first object of government must be commensurate with the principal danger confronting civil society, and since the principal danger, for Madison, is none other than majority faction, it follows that to protect the diverse and unequal faculties of men is to protect men of superior advantages from any attempt to the many to render all men equal by reducing them to a level of mediocrity.<sup>10</sup>*

9. The distinction between "government" and "society" is foreign to Aristotle's discussion of the political community. For an excellent discussion of Aristotle's concept of the polis, and its distinction from the modern concepts of government, society, or government-and-society, see

A government which restricts itself to the protection of property, then, is nonetheless related to the excellence of its citizens as an enabling principle, as a necessary if not sufficient condition, as a means to an end (even though it does not promote that end explicitly and directly).

In the second place, Madison's limited government would do more than secure the possibility of human excellence, for the political arrangements which he proposes for protecting property could be expected to foster virtue and reason by their very operation. To see this aspect of Madison's politics, let us further consider his discussion of faction. Republics, Madison remarks in *Federalist 10*, have labored under opprobrium because they are prone to the rule of a factious majority, a majority actuated by a common motive adverse to the interests of the community, or to the rights of other citizens. His remedy for this vice of popular government is to establish a republic large enough to embrace a multiplicity of interests (or potential factions), so that no single interest can form a majority and control the government. To the degree that the large republic succeeds in preventing the formation of a factious majority, it will frustrate the unbridled passion of any faction. The unbridled passions of a given faction will not persuade the majority, because the latter will not be actuated by the same passion. Each interest will have to present its claims in terms that the majority will find persuasive. Thus, anyone who hopes to be politically effective must learn to moderate his passions. In this way, the very operation of the large republic promotes the virtue of moderation. Moreover, the success of the extended republic would almost require justice and reason in the public life of the citizens. As Madison concludes in *Federalist 51*:

*In the extended republic of the United States, and among the great variety of*

Harry Jaffa, "Aristotle," *History of Political Philosophy*, op. cit., 65-72.

10. *The Philosophy of the American Constitution*, (New York: The Free Press, 1968), 153.

*interests, parties, and sects which it embraces, a coalition of a majority of the whole society could seldom take place on any other principles than those of justice and the general good.*<sup>11</sup>

Finally, Madison's model for limited government provides a context in which high political virtue can flourish. Lest the great body of citizens lack the wisdom and virtue needed to secure private rights and the other ends of government, the Virginian's constitutional model includes the principle of representation. This may provide, in the Senate especially, a select body of men characterized by "wisdom . . . patriotism and love of justice." To secure its objects, it seems, a republican constitution must provide for the exercise of high public virtue, the vindication of "reason, justice, and truth" by those citizens most capable of statesmanship. Madison's republican constitution would promote the exercise of statesmanship: a) by establishing the principle of representation in a large republic, thus tending to center the public choice "on men who possess the most attractive merit, and the most diffusive and established character"; b) by establishing a legislative body, the Senate, with a tenure lengthy enough to provide its members with the requisite experience of the nation's affairs, and to insulate them from transient popular passions; and c) by establishing the separation of powers, which should check the propensity of the few to exercise their characteristic vices.<sup>12</sup>

Thus, even if Madison's understanding of government is taken only in the limited sense that he emphasized, one can see that he expects government to have effects on the activities of its citizens, beyond its explicit objects. It will protect the possibility of excellence. It will promote moderation in the great body of the citizens. And in addition, it will provide a context in which superior men may rise to public office, and be able to exercise the virtue of statesmen.

11. *Federalist* 51, *op. cit.*, 340-41.

12. Citations from *Federalist* 10 and 63. See also *Federalist* 51 and 62; Eidelberg, *op. cit.*, Ch. 8.

### Religion in a Free Society

THE above remarks should help to explain why Madison could comfortably state a doctrine according to which government has as its object something far less than the full human good as he understood it. But even taking into account the expected effects of his constitutional model, Madison's "government" is certainly more limited than Aristotle's *polis*. It does not follow, however, that Madison correspondingly "lowered the sights" of public life, since Madison distinguished in public life the governmental from the societal. Hence, better to comprehend the relation between Madison's anthropology and his understanding of civil life (the member of "society" being, for Madison, "citizen"), we should go beyond his statements on the ends of government and consider his expectations regarding the use of freedom in society. Stated otherwise: with respect to those ends traditionally considered the highest concern of political society, but which Madison deemphasized as objects of government, what did he expect would be achieved by social institutions, informal associations, and individual citizens, acting without the direct support or guidance of government? For two reasons, it will be most instructive to look into Madison's expectations regarding religion: a) because the traditional Western polity had regarded the support of religion as a proper, if not the chief, object of government; b) because Madison, like Locke, adamantly severed government from any connection with religious ends (which he did not do with regard to the moral and intellectual improvement of citizens).

Madison's predictions for religion in a free society were, in one word, optimistic. Religion, he remarked, is natural to man; there are causes in the human breast that secure the perpetuity of religion without the aid of law.<sup>13</sup> Madison attributed the desire for established religion to the opinion that government and religion rely on one another for mutual support. Repeat-

13. *Writings*, *op. cit.*, IX, 101, 126-27, 487.

edly, he contradicted that opinion, which he called an "old error." Such a coalition, he claimed, is a corrupting influence on both parties. Often he would point with pride to the results of disestablishment in his native Virginia, especially to its effect on the previously established Episcopal Church:

*Prior to the Revolution, the Episcopal Church was established by law in this State. On the Declaration of Independence it was left with all other sects, to self-support. And no doubt exists that there is much more of religion among us now than there ever was before the change; and particularly in the Sect which enjoyed the legal patronage. This proves rather more than, that the law is not necessary to the support of religion.<sup>14</sup>*

Madison did not claim that disestablishment would favor the universality of orthodox religious opinion: human opinions must be "various and irreconcilable concerning . . . doctrines of religion."<sup>15</sup> There may also appear religious extravagances injurious to both religion and social order. The proper remedy for such excesses, he counseled, is time, forbearance, and example. In such instances, reason will gradually gain its ascendancy, while the interference of government would more likely increase than control fanatic tendencies.<sup>16</sup> Doctrinal differences among Christian denominations appear not to have concerned Madison very much; perhaps he considered them to be variants of those frivolous and fanciful distinctions, absurd to the philosopher, that arouse men to mutual animosity. But he did claim that disestablishment would promote reasonability in religious opinions, and moreover that it would foster the practice of the gospel virtues.

In conclusion, Madison expected religion to flourish in American society, without falling excessively into fanatic distortions, even

14. *Ibid.*, 126-27.

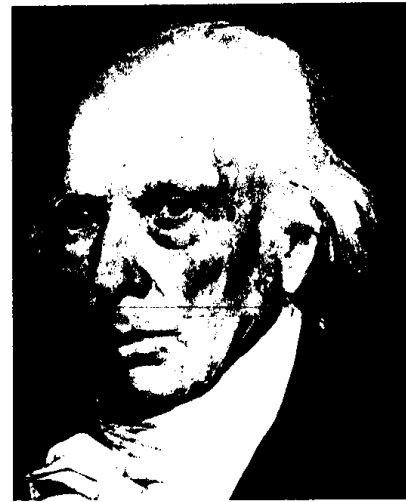
15. *Ibid.*, V, 82.

16. *Ibid.*, IX, 487.

though it is neither enforced, encouraged, nor guided by government. Thus, Madison's limited view of the objects of government must be understood within the context of this expectation: that the most sacred of human activities would find public support and expression in society, and that they would be better served by such means than by the "interference" of government.

#### Limited Government: The Dictates of Prudence and the Value of Liberty

GIVEN that Madison's politics was more comprehensive than Locke's, and reflects a view of man and society more consonant with classical and medieval than with modern political theory, one might wonder why he advocated limited government. Why did he not see the full human good as an end belonging as fully to government as to social institutions? Was he



James Madison

*Thus, Madison's limited view of the objects of government must be understood within the context of this expectation: that the most sacred of human activities would find public support and expression in society, and that they would be better served by such means than by the "interference" of government.*



so sanguine as to think that social institutions seeking to form men for the good life will always function well, and have no need for the public support and discipline provided by law? May not social agencies (family, church, academy, profession, local community) suffer decadence or degradation? And even if society could be relied on to function adequately at all times, why should the most common of public institutions, the government, have a minimal and muted role with regard to the highest of human activities?

Madison was not in fact sanguine regarding the use of autonomy under a limited government—men have a tendency to be dominated by their passions. Yet he had substantial reasons for advocating limited government. Some of his reasons were negative, and were rooted not in his view of the human good, but in his judgment of the “fallenness” of concrete men. Madison’s positive reason for advocating limited government was also the major reason for his republicanism: the value he placed on human liberty.

First among the Virginian’s negative reasons for narrowly defining the role of government was his lively awareness that power is subject to abuse. Rulers, under the guise of promoting the happiness of the people, may in reality use their power for tyrannical purposes. Such is the case with the very regimes which make wisdom and virtue the basis of their claim to rule: “In monarchies, the interests and happiness of all may be sacrificed to the caprice and passions of a despot. In aristocracies, the rights and welfare of the many may be sacrificed to the pride and cupidity of the few.”<sup>17</sup> Madison saw similar dangers in popular government; the democratic majority may abuse its power, and the elected officials of a republic may apply to personal ends the powers delegated to them. This is not to say that Madison viewed men as radically corrupt; he saw in the generality of men qualities “which justify a certain portion of esteem and trust.” He never forgot,

17. *Ibid.*, IX, 361.

however, that present in the creature is “a degree of depravity . . . which requires a certain degree of circumspection and distrust.”<sup>18</sup> Madison did not hold that such flaws in human character imply stringent limits on the powers of government. For example, against those who contended that the Constitutional Convention had framed a government which places too much confidence in men, he argued: “Where power can be safely lodged, *if it is necessary*, reason commands its cession. In such cases, it is imprudent and unsafe to withhold it.”<sup>19</sup> However, Madison did not deny that there are reasons for distrust as well as confidence in those who will control government. Madison’s qualified mistrust of popular majorities and of government officials, magnified to the degree that they might wield power, does much to explain why he emphasized only those functions of government that are strictly necessary.

A second reason for Madison’s advocacy of limited government was alluded to earlier: his statesman’s concern for establishing a regime fitted to concrete men, rather than to an unrealizable “nation of philosophers.” Not inconsistent with Aristotle, Madison held that the aims of any government must be formulated with a view to the capacities of most citizens. His own application of this axiom was for given men, in a given place and time, with a view to a given regime. Thus, the fact that Madison focused quite so much on the narrower functions of government may be related to the individualist cast of mind prevalent among his fellow citizens. A more fundamental consideration may have been his judgment that this particular people would perform respectably in a free society. He did not advocate limited government for every time and place. But the most important consideration, in this context, is that Madison was a *republican* statesman—an advocate of popular government. Although he explicitly placed his confidence in the capacity of mankind for self-government, he at the same

18. *Federalist* 55, p. 365.

19. Elliott, *op. cit.*, III, 394.

time averred that "there are subjects to which the capacities of the bulk of mankind are unequal."<sup>20</sup> This implies limited government for two reasons. First, the aristocrat's insistence on the primacy of virtue may not make much sense to everyman. Secondly, the far-ranging and complex activities of "positive government" are likely to place public affairs beyond the popular understanding—a piece of wisdom recently recaptured by contemporary social scientists, albeit at great expense.

The last point raises a further question: Why was Madison a partisan of self-government in the first place? To be sure, he was aware that the "genius of the American people" favored popular government. It may also be that he saw in the dynamic of mercantile and industrial capitalism the portents of a democratic age. Still, his advocacy of republicanism cannot be reduced to an accommodation to the spirit of the age (or of future ages). Madison was a genuine republican, whose republicanism was rooted in his deep regard for human liberty. His attachment to liberty gave him a positive reason for emphasizing only the most basic and necessary functions of government.

The importance which Madison attached to the principle of liberty is apparent in his reflections on the significance of American enterprise. Liberty, he writes, is "the great end, for which the Union was formed"; it should be the central object of the social system, having power as its satellite.<sup>21</sup> Madison's reasoning seems to be the following: men are naturally endowed with the faculties required to pursue the human good in its various dimensions. Among some peoples, those faculties may be at such a primitive stage of development as to require paternal rule. Madison no doubt recognized that even in the most civilized societies, there may be individuals whose mental incompetence or moral depravity requires that they be ruled by others. Most men, however, are sufficiently endowed with the spe-

cifically human faculties: the unequal distribution of those faculties may imply a difference in rank, but not a difference in kind. Since men are equal in this sense, men are naturally free: no man or group of men has the right to rule other men without their consent.<sup>22</sup> Human nature thus requires that the sovereignty of the people be acknowledged. It is in her recognition of popular sovereignty and the liberty of man that America has, for Madison, a universal significance. This belief is expressed in the opening passage of his essay on "Charters":

*In Europe, charters of liberty have been granted by power. America has set the example and France has followed it, of charters of power granted by liberty. This revolution in the practice of the world, may with an honest praise, be pronounced the most triumphant epoch of its history, and the most consoling presage of its happiness. We look back, already, with astonishment, at the daring outrage committed by despotism, on the reason and rights of man; we look forward with joy, to the period, when it shall be despoiled of all its usurpations, and bound forever in the chains, with which it had loaded its miserable victims.<sup>23</sup>*

Since liberty implies popular government, it also implies limited government, for reasons already mentioned. Yet the relation between liberty and limited government also has more direct and positive dimensions. Just as the people have a right to be governed by their own consent, so does the individual have a right to autonomy which may not justly be denied, even by popular consent. The areas of personal autonomy are listed by Madison in his essay on property, cited above. Liberty of action for each of the rights mentioned in that essay is, to be sure, limited by government's legitimate protection of the rights of others. The rights

20. *Writings, op. cit.*, V, 81.

21. *Ibid.*, VI, 109, 120.

22. See Harry Jaffa, *Equality and Liberty*, (New York: Oxford University Press, 1965), 176-78, *et. passim*.

23. *Writings, op. cit.*, VI, 83.

of conscience, however, "the most sacred of all property," are apparently to be subject to no further constraints. And, although "other property" may depend "in part on positive law," it is clearly Madison's sense that positive law should recognize that limitations on these rights, not their free exercise, is the exception rather than the rule.

#### Madison and the Western Tradition

MADISON'S advocacy of a free society returns us to the question of his "place" in the Western political tradition. While the previous argument has shown that he is not a "modern," neither is he an "ancient," in his emphasis on liberty. In this light, I would suggest the possibility that his political thought has specific roots in Christian political thought.

The idea of limited government is not specifically modern, but rather was original to medieval Christianity. In the medieval vision the Church, the Body of Christ, is charged with the care of spiritual things, which are eternal, whereas the political community is concerned with the things which will pass away with time. Thus, the political community is inferior to the Church, and must recognize the Church's right to pursue its higher ends. That Madison assigns the most sacred rights to the conscience, rather than to the Church, may be seen as simply an expression of the Protestant principle, each man his own priest. Similarly, a general emphasis on liberty, such as we find in Madison's thought, may well be implied by the Christian principle that each man has a personal responsibility freely to seek the good—a responsibility also incumbent on social institutions (the family, the academy, etc.) with regard to the particular goods appropriate to each.<sup>24</sup>

24. *Vide* the papal teaching on the principle of subsidiarity, beginning with the encyclical of Pope Leo XIII, *Rerum Novarum*, collected in *The Social Teachings of the Church*, ed. Anne Free-

The importance that Madison attaches to liberty, especially the liberty of conscience, is difficult to square with the perspective of an Aristotelian statesman. It may better be interpreted as an expression of the Christian political mind, for it involves no irrevocable link with strictly modern politics. As noted earlier, Madison was not an apostle of the claims of the passions, nor was he a simple partisan of freedom, indifferent to the ways in which it would be used. He saw, and was concerned about, some of the vices which would be incident to a free society. Aware as he was of the "fallenness" of concrete men, Madison knew that licentious behavior and extravagant intellectual error are possibilities implicit in the emancipation of the faculties. Yet such judgments did not lead Madison to assign plenary powers to government. Madison's advocacy of liberty, despite the danger of its misuse, may have been influenced by his lack of confidence that any class of "guardians" would govern justly, and by his belief that the free society, at least in America, would provide adequately for those things which would not be the focus of governmental activity. Madison did not advocate limited, republican government in every circumstance. In the case of the American Indian, he in fact proposed a paternal rule that would last until the Indians developed civilized institutions. It appears that the translation of man's natural liberty into a civil right must be proportioned to the capacity of a given people to use liberty well. Yet for a sufficiently mature, civilized people, the first principle of Madison's politics is liberty: the liberty of a people, and of persons, who are expected freely to order themselves to the higher things. We thus find in Madison a noble alternative to that Lockean liberty which is the emancipation of acquisition.

mantle. (New York: Mentor-Omega Books, 1963), 20-56.