**James Madison**

**On Power and Structural Protections of the Constitution**

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*In the early years of the American republic, James Madison served as a leader in the Congress he had helped create as an influential designer of the US Constitution during 1787. However, Madison soon became concerned that elements of the Washington Administration, specifically Alexander Hamilton, with whom Madison worked in defending the Constitution in the Federalist papers, had begun ignoring the division of power between the states and federal government and between the legislative and executive branches as agreed to in the Constitution.*

Power being found by universal experience liable to abuses, a distribution of it into separate departments, has become a first principle of free governments. By this contrivance, the portion entrusted to the same hands being less, there is less room to abuse what is granted; and the different hands being interested, each in maintaining its own, there is less opportunity to usurp what is not granted. Hence the merited praise of governments modelled on a partition of their powers into legislative, executive, and judiciary, and a repartition of the legislative into different houses.

The political system of the United States claims still higher praise. The power delegated by the people is first divided between the general government and the state governments; each of which is then subdivided into legislative, executive, and judiciary departments. And as in a single government these departments are to be kept separate and safe, by a defensive armour for each; so, it is to be hoped, do the two governments possess each the means of preventing or correcting unconstitutional encroachments of the other.

Should this improvement on the theory of free government not be marred in the execution, it may prove the best legacy ever left by lawgivers to their country, and the best lesson ever given to the world by its benefactors. If a security against power lies in the division of it into parts mutually controuling each other, the security must increase with the increase of the parts into which the whole can be conveniently formed.

It must not be denied that the task of forming and maintaining a division of power between different governments, is greater than among different departments of the same government; because it may be more easy (though sufficiently difficult) to separate, by proper definitions, the legislative, executive, and judiciary powers, which are more distinct in their nature, than to discriminate, by precise enumerations, one class of legislative powers from another class, one class of executive from another class, and one class of judiciary from another class; where the powers being of a more kindred nature, their boundaries are more obscure and run more into each other.

If the task be difficult, however, it must by no means be abandoned. Those who would pronounce it impossible, offer no alternative to their country but schism, or consolidation; both of them bad, but the latter the worst, since it is the high road to monarchy, than which nothing worse, in the eye of republicans, could result from the anarchy implied in the former.

Those who love their country, its repose, and its republicanism, will therefore study to avoid the alternative, by elucidating and guarding the limits which define the two governments; by inculcating moderation in the exercise of the powers of both, and particularly a mutual abstinence from such as might nurse present jealousies, or engender greater.

In bestowing the eulogies due to the partitions and internal checks of power, it ought not the less to be remembered, that they are neither the sole nor the chief palladium of constitutional liberty. The people who are the authors of this blessing, must also be its guardians. Their eyes must be ever ready to mark, their voice to pronounce, and their arm to repel or repair aggressions on the authority of their constitutions; the highest authority next to their own, because the immediate work of their own, and the most sacred part of their property, as recognising and recording the title to every other.