Madison and his Contemporaries

**An Addendum to** **R. Cooper and K. L. Dougherty,**

 **“The Consistency of James Madison’s Politics,”**

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## The following historical narrative supports claims made in “The Consistency of James Madison’s Politics,” about Madison changing his policy positions like other federal legislators. In this addendum, we examine a few cases of policy switching by Madison and two of his contemporaries, James Monroe and Rufus King. We use Monroe and King as our comparisons because both served in the Congress of the Confederation and the U.S. Congress during the same period as Madison and because their backgrounds help us control for constituency in two ways. King, like Madison, switched from a predominantly federalist district to a predominantly anti-federalist district with the adoption of the Constitution, but he hailed from a different state than Madison. Monroe came from the same state as Madison but represented a predominantly federalist district before and after the Constitution was adopted. Thus, these two personages provide some differences across states and changing constituencies which may affect their policies.

## Strict Constructionism

Madison’s most perplexing political change was his stance on how to interpret a constitution: broadly, with implied powers, or strictly, with powers written explicitly in the text. Madison tended to interpret the Articles of Confederation broadly and the Constitution more narrowly. Even though the power to enforce requisitions was not enumerated in the Articles of Confederation, because it would infringe upon state sovereignty, Madison claimed congress had an “implied right” to enforce requisitions, which he envisioned would require two or three naval vessels. In 1781 he claimed that such a right might already exist. “[F]or as the confederation now stands,” he wrote, “and according to the nature even of alliances much less intimate, there is an implied right of coercion against the delinquent party” (Madison 1962-91, 3: 71-72). The Articles of Confederation were designed to protect state sovereignty and clearly did not give congress explicit power to coerce any state. Nevertheless, Madison suggested that such a power might be implied because it would make the system of requisitions, which was enumerated in the Articles of Confederation, viable.

 At the Constitutional Convention, Madison pushed for a procedure to adopt the Constitution that was not in the Articles of Confederation. Madison clearly did not go out of his way to adhere to strict constructionism in the revision of that document. Instead, he supported a lower ratio of states needed for ratification and tried to bypass state legislatures.

 After the Constitution was enacted, Madison changed tack, using far stricter interpretations of the Constitution’s text to justify his policies. In 1790 he opposed chartering the First National Bank of the United States in part because congress did not have the explicit power to issue charters, making a bank proposed by congress unconstitutional. In 1793 he claimed that congress, not the executive, had the authority to proclaim neutrality in the conflict between France and Great Britain, because the Constitution explicitly gave congress the power over laws and treaties (Hamilton and Madison 2007). And he generally opposed Hamilton’s financial plan because it limited the legislature’s ability to make laws as delineated by the Constitution.

 In contrast, James Monroe adhered to the enumerated powers of the reigning constitution throughout his career. Monroe first took his seat in the confederation congress in 1783 when proponents of states’ rights, like Samuel Adams (MA) and Patrick Henry (VA), were reasserting their voice. Although Monroe was a moderate, he frequently allied himself with the nationalists, championing broader commercial powers and a stronger national defense. At Virginia’s state ratifying convention, Monroe sided with the opponents of the Constitution because it did not allow for a direct election of senators or the President and it was missing a bill of rights. After Madison defeated Monroe in his bid for the U.S. House of Representatives, Monroe replaced the late William Grayson in the Senate. He remained a moderate during his five years in that chamber, aligning himself with Madison, Jefferson, and the rising Republican Party.

With just one or two possible exceptions, Monroe seems to have upheld a fairly narrow interpretation of constitutional authority throughout his career. Monroe defended the wisdom of each of his favorite policies, maintenance of a standing army, internal improvements, and American foreign policy, without appealing to implied powers.

For example, Monroe believed in amending the Articles of Confederation to give congress more power over commerce. In 1785 he gathered a committee and issued letters to the state legislatures asking them to revise Article IX. When his efforts failed, he accepted the failure and abided by the commercial authorities outlined in the Articles. In contrast, Jefferson claimed the commercial powers Monroe sought were implicit (Ammon 1971, 51; Jefferson 1953, 8: 227-234).

 As a U.S. Senator, Monroe voted against the establishment of a national bank and pushed to suspend debt payments under the terms of a 1783 treaty. In these cases, Monroe never appealed to a broad interpretation of the Constitution.[[1]](#footnote-1)

## Standing Armies

Monroe’s most outspoken position in the Congress of the Confederation was on the creation of a standing army capable of defending the frontier. Unlike most of his fellow congressmen, Monroe “considered a standing army indispensable as long as any European power held possessions on the American continent” (Ammon 1971, p. 44). Monroe attempted to persuade other delegates to adopt such a bill, but could only win support for a small, one year enlistment.

 Monroe remained consistent on most of his policies but he *did* switch positions on a standing army. Monroe opposed the Washington administration’s bill for expansion of the army for the militarization of the West, which provided for the raising of three additional infantry regiments and a squadron of light dragoons (United States 1849, 3: 80-82). Ammon (1971) attributes his change to party politics, rather than a change in his goals. Monroe seems to have remained consistent in his political thought, but not across *all* of his politics.

 Madison was not entirely consistent on standing armies either. When he returned to New York in 1787, congress was discussing whether the army raised to suppress Shays’ Rebellion in Massachusetts should remain in the field to defend the Northwest Territory. On February 19, Charles Pinckney (SC) recommended that they suspend additional efforts, which most Southerners supported. But Madison argued in favor of the Northern position of maintaining a federal army. “Whenever danger,” he argued, “was apprehended from any foreign quarter which of necessity extended itself to the federal concerns, Congs. were bound to guard agst. it” (Madison 1962-91, 9: 275-279). Although threats from the British were not imminent, Madison wanted a *small*, peacetime army to protect the nation from future invasions in the Northwest.

 Later that summer Madison seemed to change positions. At the Constitutional Convention, he argued for a national government with complete powers to organize, arm, and discipline the militia. But he also argued against a standing army because “[t]he means of defence against foreign danger, have been always the instruments of tyranny at home. Throughout all Europe, the armies kept up under the pretext of defending, have enslaved the people” (Farrand 1966, 1: 465). In addition to propping up false governments or facilitating the threat of a military coup, standing armies required large amounts of taxes for their maintenance, which might enslave the people they served. Madison argued in favor of state militias instead, as a check against this threat (Farrand 1966, 2: 388).

 This approach, which was largely echoed by Jefferson, guided his thinking under the Constitution. Madison feared that Hamilton, and, to a lesser extent, Washington, were creating a European style government with a standing army and an independent executive wielding too much power. To avoid such centralizing tendencies, Jefferson and Madison as Presidents kept the national army small and relied on state militias instead.

 Although Madison seems to have been less consistent in his policies than someone like Monroe, other politicians, like Rufus King, wavered equally. King did not drift away from an alliance with Hamilton to become a leader of the opposing party. Instead, he switched positions even while remaining a nationalist and a Federalist throughout his career.

## National Bank

Rufus King was a lawyer and politician from Massachusetts, well versed in New England shipping. In the decade leading up to the Constitution, he, like Madison, served in his state legislature, the Congress of the Confederation, and the Constitutional Convention. Both were fairly strong nationalists during this period. However, after the Constitution was enacted, their paths diverged; King served in the U.S. Senate and developed into a Federalist, while Madison served in the U.S. House of Representatives and developed into a prominent Republican. Both men seemed to change stances on some policies, occasionally in different directions.

 For example, King was an outspoken supporter of the First Bank of the United States proposed by Hamilton, but he opposed the Second Bank of the United States proposed by a Republican controlled congress. The first bank required 25% of the initial purchase in specie, while the second bank required only 5% of the initial purchase in specie. King worried that the amount of specie for the second bank was too low; if the money issued by the bank exceeded the amount it received in specie, the bank might become a “paper bank,” rendering it useless.

A week before the Senate voted on the second bank, King tried to explain the apparent inconsistency to his son:

Excepting the magnitude of its Capital, and the appointment by the President and Senate of a fifth of the Directors, I should assist in passing the Law. ...but especially on the latter objection I am opposed to it. The Patronage of the Executive is already enough ... without creating 5 Directors of the Bank of the U.S., who may overlook and in some way control the private business of every man in the nation (King 1898, 6:17).

Like the first bank of the United States, the second bank had twenty-five directors. However, the first bank did not set aside five seats (one-fifth) for Presidential appointments; all seats were appointed by the bank itself. Can we consider King’s objection to the five presidential appointees as a principled objection, given that King himself was assigned one of the seats in the first bank? King thought so. He noted that after the Republicans came to power, they switched sides on taxes, the military, and the bank, in favor of positions that were formerly Federalist. “I remain the same,” he claimed. “If others change and do what I did, and still contend that I was wrong in doing as they do now, it is for them to make out their own consistency” (King to Christopher Gore, June 26, 1816, King 1898, 6: 27).

 Madison was one of the Republicans King had complained about. Madison opposed the first bank in 1791, when it was controlled by the emerging Federalists, but signed the second bank into law in 1816, when it was proposed by the Republicans. These stances were the opposite of King’s. Madison explained the difference in his positions as an issue of constitutionality. The first bank was unconstitutional because the Constitution did not give congress the power to charter banks. The second bank was constitutional because twenty years of popular approval “amounted to the requisite evidence of the national judgement and intention” (June 29, 1831, quoted in Ketcham 1990, 506). Madison believed twenty years illustrated that the public had accepted an interpretation of the Constitution which allowed for the incorporation of a bank.

 The point is not that Madison’s political thought was comparable to King’s or Monroe’s. The point is that Madison’s seemingly inconsistent stance on policies was not unique. Many politicians of the time seem to have changed policy stances, some changed stances on the same issues in opposite directions. A clear rationale for each position likely exists, but without further analysis, we should avoid any claim that Madison was any more or less consistent than his peers. Our paper, “The Consistency of James Madison’s Politics,” is an attempt to place his policy changes in the context of other politicians who changed policies at the same time.

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1. Some individuals might challenge the notion of Monroe as a strict constructionist. After he succeeded Madison as President in 1816, members of the House Committee on Internal Improvements chided Monroe for reaching beyond his executive authority by recommending federal funds for internal improvements (Ammon 1971, 387). The House committee also noted that Monroe had authorized the army to construct a road from Plattsburg to Sackett’s Harbor in New York, which again questioned his fidelity to constitutional limits, because the power to provide internal improvements was not written in the Constitution (Ibid., 387). The fact that he aired such opinions at all raises doubts about whether he was entirely faithful to strict constructionism. [↑](#footnote-ref-1)