James Madison Preserved Freedoms While Waging War
by John C. A. Stagg

Ten months after the tragedy of Sept. 11, we should bear in mind the legacy of James Madison as we act to fight the enemies of the nation within and without.

Madison, the "Father of the Constitution," also lived in troubled times. Wars were regular events in the 18th century, and Madison's life was played out against the backdrop of such upheavals as the American and French revolutions and the Napoleonic wars. Indeed, his public life coincided with international conflict that stretched, almost without interruption, from 1776 to 1815.

The first time the nation waged an undeclared war against enemies on an extended scale came in the late 1790s, in a conflict with France. John Adams was president and regarded France as a dangerous threat to international peace. He signed legislation--the notorious Alien and Sedition Acts--to cope with dangers, real and perceived. The first of these laws severely restricted the rights of immigrants in the United States; the second criminalized any criticism of the government and its policies.

Madison went public with his criticism of these laws. The man who compiled the Bill of Rights used the occasion to spell out the fundamental principles of the role of a free press and the civil liberties of immigrants in the United States, principles that have shaped the nation we are fighting to protect today.

Madison disliked the Alien Acts for a number of reasons, not the least of which was that it overturned the naturalization law he had drafted in 1795. After Thomas Jefferson became president in 1801 and installed Madison as his secretary of state, the 1798 Alien Act was repealed and Madison's 1795 law was reenacted. That law created the framework within which America's strong traditions of immigration, naturalization and citizenship developed in the 19th century.

Madison's criticism of the Sedition Act was both prophetic and profound. He argued that a free government is not harmed by criticism in the media, while governmental efforts to suppress critics betray the cause of free government. In the middle of the 20th century, the U.S. Supreme Court concluded in the celebrated case of Sullivan v. The New York Times that Madison had got it right and his reading of the First Amendment in 1800 was the best guide for the nation to follow.

Later, as president during the War of 1812, Madison faced huge challenges. He decided to take on one of the greatest military powers in the world, and many of his contemporaries were at a loss to see how the United States could win. The American

army and navy were minuscule in comparison with those of Great Britain; Americans were horrified by the debts and taxes they would have to absorb to pay for the war; and from the outset, Madison was under fire from political opponents who not only publicly criticized the war, but also hindered recruiting for the armed forces.

How did Madison respond? He bit the bullet. He asked Congress for the authority to raise the money and the men needed to fight. Congress dragged its heels, which had unfortunate military consequences, and the military campaigns were often embarrassing. To this day, Madison remains the only president in the nation's history to be driven from the White House by an invading army--as he was in August 1814 when the British burned Washington.

Yet, throughout all these difficulties, Madison never faltered in his duty. He never lost his nerve and he never lost his faith that the nation ultimately would prevail. Gradually, the nation's military performance improved and by the end of the war, American forces inflicted some serious defeats on their British opponents.

The most interesting aspect of Madison's record as a war president was how he handled his critics. When war was declared in the summer of 1812, a Supreme Court justice advised the U.S. attorney general to criminalize the activities of the administration's opponents, just as in 1798. Madison deep-sixed the proposal despite pressure from supporters to do something to silence his critics. The result was that a free press and civil liberties flourished to the fullest extent throughout the War of 1812.

Madison countered the arguments of his critics publicly, in the newspapers, making it plain that he was not prepared to allow the pressure of war to damage the First Amendment. Still, he made it clear that while there were no limits on free speech, there were limits on how far speech might be translated into actions that harmed the nation at war. When the criticism of his New England Federalist opponents threatened to spill over into treason and rebellion, Madison also took the necessary military precautions to protect the integrity of the republic.

Historians have dismissed Madison as an ineffective war president whose record as commander in chief left no useful legacy. That assessment is simplistic and wrongheaded.

Madison's point--both in and out of office--was that war is never just a matter of defeating a foreign enemy. War is a profound undertaking because it contains within it the potential to subvert the liberties that he and the other Founding Fathers sought to establish with the Constitution. Presidents, Madison believed, must be careful to

balance the goals they seek through war with the kind of nation they wish to see at the end of the conflict.

A nation that guarantees freedom of speech and civil liberties is what Madison always sought to realize, in good times and in bad, in times of war as well as in times of peace. In that respect, Madison's example as a war president continues to be relevant today.

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