

Interpretation

A JOURNAL OF POLITICAL PHILOSOPHY

Spring 2018

Volume 44 Issue 3

- 359 *Rodrigo Chacón* Philosophy as Awareness of Fundamental Problems, or Leo Strauss's Debt to Heidegger's Aristotle
- 379 *W. Julian Korab-Karpowicz* Why a World State Is Unnecessary: The Continuing Debate on World Government
- 403 *Laurence Lampert* Reading Benardete: A New *Parmenides*
- 425 *Ronald Beiner*
431 *Charles U. Zug* **An Exchange:**
Nietzsche's Final Teaching
by Michael Allen Gillespie
- 439 *Michael Allen Gillespie* On *Nietzsche's Final Teaching*: A Response to My Critics
- 447 *Charles U. Zug* Developing a Nietzschean Account of Musical Form: A Rejoinder to Michael Gillespie's Response
- 451 *José A. Colen* **Review Essay:**
What Is Wrong with Human Rights?
- 471 *Marco Andreacchio* **Book Reviews:**
For Humanism, edited by David Alderson and Robert Spencer
- 475 *Bernard J. Dobski* *Tyrants: A History of Power, Injustice, and Terror*
by Waller R. Newell
- 483 *Jerome C. Foss* *James Madison and Constitutional Imperfection*
by Jeremy D. Bailey
- 487 *Raymond Hain* *The Virtue Ethics of Levi Gersonides*
by Alexander Green
- 493 *Richard Jordan* *Public Intellectuals in the Global Arena: Professors or Pundits?*, edited by Michael C. Desch
- 501 *Mary Mathie* *Fate and Freedom in the Novels of David Adams Richards* by Sara MacDonald and Barry Craig
- 507 *Tyler Tritten* "Philosophie und Religion": Schellings *Politische Philosophie* by Ryan Scheerlinck

Interpretation

A JOURNAL OF POLITICAL PHILOSOPHY

- Editor-in-Chief* Timothy W. Burns, Baylor University
- General Editors* Charles E. Butterworth • Timothy W. Burns
- General Editors (Late)* Howard B. White (d. 1974) • Robert Horwitz (d. 1987)
Seth G. Benardete (d. 2001) • Leonard Grey (d. 2009) •
Hilail Gildin (d. 2015)
- Consulting Editors* Christopher Bruell • David Lowenthal • Harvey C.
Mansfield • Thomas L. Pangle • Ellis Sandoz • Kenneth
W. Thompson
- Consulting Editors (Late)* Leo Strauss (d. 1973) • Arnaldo Momigliano (d. 1987) •
Michael Oakeshott (d. 1990) • John Hallowell (d. 1992)
• Ernest L. Fortin (d. 2002) • Muhsin Mahdi (d. 2007) •
Joseph Cropsey (d. 2012) • Harry V. Jaffa (d. 2015)
- International Editors* Terence E. Marshall • Heinrich Meier
- Editors* Peter Ahrens Dorf • Wayne Ambler • Marco Andreacchio •
Maurice Auerbach • Robert Bartlett • Fred Baumann • Eric
Buzzetti • Susan Collins • Patrick Coby • Erik Dempsey •
Elizabeth C'de Baca Eastman • Edward J. Erler • Maureen
Feder-Marcus • Robert Goldberg • L. Joseph Hebert •
Pamela K. Jensen • Hannes Kerber • Mark J. Lutz • Daniel
Ian Mark • Ken Masugi • Carol L. McNamara • Will
Morrisey • Amy Nendza • Charles T. Rubin • Leslie G.
Rubin • Thomas Schneider • Susan Meld Shell • Geoffrey
T. Sigalet • Nicholas Starr • Devin Stauffer • Bradford P.
Wilson • Cameron Wybrow • Martin D. Yaffe • Catherine
H. Zuckert • Michael P. Zuckert
- Copy Editor* Les Harris
- Designer* Sarah Teutschel
- Inquiries* ***Interpretation, A Journal of Political Philosophy***
Department of Political Science
Baylor University
1 Bear Place, 97276
Waco, TX 76798
- email* interpretation@baylor.edu

Jeremy D. Bailey, *James Madison and Constitutional Imperfection*. New York: Cambridge University Press, 2015, xiv + 181 pp., \$30.99 (paperback), \$98.00 (hardcover).

JEROME C. FOSS

SAINT VINCENT COLLEGE

jerome.foss@stvincent.edu

James Madison is perhaps the most complex of the American Founders, at least when one views his thought over time. In the midst of a particular debate he could offer a clear and often compelling argument, but continuity of principles from one phase of his career to the next is difficult to discern. The Madison of the Constitutional Convention is a committed nationalist, while the Madison responding to the Alien and Sedition Acts emphasizes states' rights. The Madison of *The Federalist* defends constitutional veneration, while the Madison of 1800 helps secure a political revolution. Representative Madison of the 1790s leads congressional opposition of the First National Bank while President Madison of the 1810s signs into law a more ambitious Second National Bank. How can Madison be explained?

One is faced with two temptations when looking at Madison's entire corpus: to read him as a philosopher attempting to moderate American politics with prudential statesmanship, and to think of him as a shifty politician with a wet finger in the air to gauge the political breezes that necessarily shift and change under popular rule. Neither option is particularly satisfying, in large part because both lead to the conclusion that we should take Madison's particular arguments less seriously as works of political thought. If his inconsistencies are explained as a philosophical attempt to moderate American politics, then his arguments in *The Federalist* and elsewhere speak to the needs of the moment rather than the nature of constitutional government in

the United States, and therefore make sense only in light of their historical context. As that context has passed, why bother teaching them to students today? The same conclusion arises if one thinks of Madison as an unprincipled politician eager for success and willing to make whatever argument he thinks will win the day. Such a position undermines the important and often influential arguments he makes throughout his career in defense of the Constitution, the Bill of Rights, national powers, states' rights, and much else. It is not entirely clear whether Madison's thought taken as a whole can avoid either of these conclusions.

Jeremy Bailey's recent *James Madison and Constitutional Imperfection* is among those books that have accepted the challenge of explaining the apparent contradictory nature of Madison's arguments over time. As the title suggests, Bailey argues that Madison's career, at least after the Constitutional Convention, is best understood as a variety of attempts to deal with the imperfections of the Constitution. These imperfections differ in kind, and therefore require different and even contradictory solutions ranging from formal constitutional amendments to extraconstitutional appeals to the people. Bailey argues that when we look at the facts from this vantage point, Madison's political thought is more consistent than it appears on the surface, and that Madison himself is much closer to Jefferson than is usually thought in his openness to popular opinion as a means of correcting perceived faults in the frame of government.

In other words, Bailey believes that Madison is less concerned with the stability of constitutional forms than with ameliorating the imperfections that came out of the Philadelphia convention hall in 1787. The composition of the Senate, the Electoral College, and a general dissatisfaction with the deliberative process under the Constitution led Madison, in Bailey's view, to seek means of correcting the shortcomings of the document he had helped to craft, and the difficulty of succeeding through the formal amendment process made the Jeffersonian impulse to turn to public opinion an attractive option for Madison. But if Bailey is right, then the author of *Federalist* No. 49 is far less committed to protecting constitutional stability than is often assumed, making *Federalist* No. 37 a better place to go to understand the doctrines of Madison's political thought, for it is in that paper that he admits to the Constitution's imperfection and discusses the importance of balancing stability with such things as republican liberty and accountability.

Not surprisingly, then, *Federalist* No. 37 receives more attention from Bailey than all the others. Essays 10 and 49 are the closest rivals, but here

the discussion often involves a comparison to No. 37. For example, Bailey points out on several occasions that the flip-side of the extended republic defended in No. 10 is that it is extremely difficult to craft a constitution when so many factions have to be taken into consideration—a point made most plainly in No. 37. A multiplicity of factions may be a benefit under the ordinary legislative process, but it presents a nearly unsurmountable obstacle to constitutional reform. In this light, Bailey argues that the rhetoric of No. 49 is meant not to discourage frequent conventions in principle as disruptive to the veneration needed for stability, but rather to convince moderates in Virginia like Edmund Randolph to reject Anti-Federalist calls for a new convention at the present moment. Madison's real fear was that the large republic made real deliberation over a new constitution impracticable, and that the better option was to rest content with the document as written and to find alternative means of rectifying its faults.

Further evidence presented by Bailey that Madison was not as concerned about stability as we usually imagine comes from the removal debates, where Madison makes the compelling case that a unitary executive does not need the permission of the Senate to remove political appointees from office. Bailey argues that Madison's objective in this debate was not so much to defend the integrity of the executive branch as to prevent the Senate from thwarting changes in administration that would better reflect public opinion. Bailey reminds us that Hamilton defended senatorial removals in *Federalist* No. 77 and desired a professional cadre of administrators—not apolitical experts in the Progressive sense, but public-spirited department heads that could expect to survive several changes in the presidency—to lend stability to the executive branch. Madison disliked such an arrangement and instead defended the president's ability to remove at pleasure, arguing that the chief executive was responsible to the people for the soundness of the administration and that institutional impediments to the executive's changes violated republican principles.

Among the scholarly virtues of Bailey's book is its attention to other arguments made about Madison. Bailey's accounts of other academics are fairly rendered and well explained, always making clear where his own assessment of the facts agrees with and where it diverges from those of others. While this makes the book less readable to the general public, it is useful to scholars engaged in the hard work of trying to figure out the political thought of one of our most respected and complex Founders. Furthermore, Bailey encourages readers to reconsider the more well-known of Madison's essays, such as *Federalist* No. 37, and those who read the book carefully will learn about several

more obscure sources that contain important clues to Madison's ideas, all of which Bailey explains with helpful insight. Anyone interested in Madison's thought would do well to read *James Madison and Constitutional Imperfection*. But whether Bailey will convince his audience that he has discovered the best way of measuring Madison over time is a difficult question to answer.

In the end, what holds Madison's various public writings together may matter less than the principles, logic, and persuasiveness of each particular argument on its own. As Hamilton says of his own essays in *Federalist* No. 1, "My motives must remain in the depository of my own breast: my arguments will be open to all, and may be judged of by all." The rule should apply equally to Madison, and other political thinkers for that matter. Whatever Madison's motives in *Federalist* No. 10, *Federalist* No. 49, the Helvidius Letters, the Virginia Resolutions, or any of his other public documents, the arguments in each case speak for themselves, and can be evaluated and judged accordingly. If Hamilton is correct, having a coherent Madison may be less important than is often assumed.