Book Review: Philosophy, the Federalist, and the Constitution. by Morton White.

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fulfill "the preconditions of republican virtue." Indeed, "[w]hen sustaining republican virtue is the theme [of debate] the treatment [of those supporting adoption of the Constitution] is muted and surprisingly incomplete." This bothers Lerner, but the justification, it seems to me, is quite plain: in a government intended to secure men in their natural rights, talk of inculcating virtue or molding manners, morals, and beliefs grates upon the ears. So, too, does the word "regime" which Lerner uses repeatedly to describe America. In the tradition of political thought that term denied a separate sphere of private activity.

It is not my purpose, however, to quarrel with Lerner over his desire to instill some virtue into the people and to borrow some of the attributes of a regime in doing it. What concerns me most is his attempt to draw the judiciary into what the framers considered to be the domain of the "political departments" of government, and to cite the most thoughtful framers in support of this project. That was not necessary to achieve Lerner's objective and will, I fear, mis-educate his readers into believing that it is all right for judges to make policy in a good cause.

My dispute with Lerner over the role of the Court should not obscure my admiration for this book. Lerner is well worth arguing with, and in the course of doing so I have furthered my own education.


Eugene F. Miller

Professor Morton White is the author or editor of more than a dozen books on philosophy and intellectual history, including The Philosophy of the American Revolution. In the present work, he seeks to carry forward his study of the American founding by extracting a philosophy from The Federalist. Professor White thinks of himself as a pioneer in this endeavor, because although various scholars have dealt with individual philosophical topics treated in The Federalist, "no other philosopher" has yet presented a synoptic view of its major philosophical ideas.
White emphasizes that *The Federalist* cannot be approached as if it were a philosophical text, since it was written mainly with the practical aim of securing ratification of the Constitution. He maintains, however, that the authors of *The Federalist*, whose collective pseudonym is "Publius," make frequent use of philosophical terms and statements. White proposes to discover what these terms and statements meant to Publius by subjecting them to logical analysis and also by explicating the philosophical texts from which Publius drew his meanings.

This project is more problematic than it may sound. In selecting terms and statements for analysis, White disregards the fact that Publius's essays contain carefully structured arguments. Aside from what he says about No. 10 and No. 51, White makes no attempt to reproduce those arguments or to view Publius's terms and statements in their contexts. The terms and statements themselves are selected in a way that is unsystematic and often arbitrary. Yet White moves confidently from his analysis of them to broad assertions about Publius's implicit philosophy—his theory of knowledge, his ethics, his psychology, his theory of action, and his metaphysics.

Rather than turning directly to the text of *The Federalist*, White begins by summarizing the views of John Locke and David Hume on the character of human knowledge. In his Introduction, White had promised to be attentive to "any philosophical text" which influenced Publius. Why then does the book focus almost exclusively on Locke and Hume? Locke is not mentioned at all by Publius, and Hume only once. Of course, White can show from other sources that Locke and Hume were read by the authors of *The Federalist*, but what of the other philosophers whom they read?

White's choice of Locke and Hume as the philosophical precursors of *The Federalist* is guided more by his own predispositions than by any testimony of the authors of that work. As White proceeds, we discover that he is attempting to prove a very distinctive thesis about the philosophy of *The Federalist*. According to this thesis, Publius's theory of knowledge is marked by an inner tension or inconsistency, which shapes the major conclusions of *The Federalist*. Publius's moral principles are supposedly based on a rationalist epistemology, derived from Locke, while his principles of psychology and political science are based on an empiricist epistemology, derived from Hume. *The Federalist* thus appears to represent "a philosophical hybrid, an offspring of Lockean rationalism in morals and Humean empiricism in politics." It is White's determination to establish this thesis that leads him to focus almost exclu-
sively on Locke and Hume as the philosophical sources of *The Federalist*.

This thesis about the bifurcation in Publius's theory of knowledge is crucial to White's overall interpretation of *The Federalist*, so it requires close scrutiny. To begin, White is probably correct in holding that Publius approached the study of politics along the lines of Hume's experimental method of reasoning. He should, however, have explored the possibility that Publius, like Hume, took the same approach to morals. White attributes to Hume a much sharper distinction than Hume himself made between "science" and ethics or morals. He is certainly wrong in suggesting that Hume "denied that ethics was an experimental science."

White arbitrarily rules out the possibility that Publius followed Hume in deriving moral knowledge from experience. As he notes, Hume shared with other Scottish philosophers the view that moral knowledge is grounded on a peculiar sense of approbation or blame that we feel upon observing human conduct. White's thesis requires him to explore the possibility that the authors of *The Federalist* grounded morality the same way, especially since James Madison had studied Scottish moral philosophy at Princeton under John Witherspoon. Yet White simply assures the reader that there is "no hint" that Madison and the other authors of *The Federalist* subscribed to the moral sense theory. We cannot tell if White has made the explorations that would be needed to justify this conclusion.

Was Publius's approach to morals and natural law based on Lockean rationalism, as White maintains? We need to consider two questions: Does White depict Locke's moral philosophy accurately? Is he able to show that Publius adopted a Lockean view of morals, as he has depicted it? I believe that both questions must be answered in the negative.

White describes Locke's moral philosophy as if it were a kind of Christian Aristotelianism. We are told that Locke derived man's moral duties and rights from his God-given nature or essence, using abstract reason. Natural rights are strictly derivative from and subordinate to duties, since we have a right to do only that which it is our prior duty to do. White seems unaware of the view that Locke broke sharply with traditional natural-law teachings and followed instead the approach of Hobbes, who treated man's natural rights as an extension of his strong desire for self-preservation and as a limitation on any duties that one might have to others.³ Locke

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³ For this interpretation of Locke, see Strauss, *Locke's Doctrine of Natural Law*, in *What is Political Philosophy? and Other Studies* (1959); see also Strauss, *Natural Law*, in *International Encyclopedia of the Social Sciences* 80 (D. Sills ed. 1968);
may not in fact have accepted the Hobbesian view of natural rights and natural law, but White never addresses this possibility or tells us why it should be ruled out.

White's account of Lockean moral philosophy is correct on one important point: Locke does treat morals as a demonstrative science, like mathematics, that rests on self-evident relations of ideas. White fails to see, however, that Locke is required, by the very epistemological principles that permit him to establish morals as a demonstrative science, to view moral principles in a way quite different from traditional writers. Lockean moral science can have a demonstrative character only because the "ideas" of which it consists are "mixed modes," constructed freely by the mind without reference to real archetypes or standing patterns existing in nature. Thus, for example, we can understand the nature of "justice" and the other virtues simply by analyzing the ideas we hold of those things, since there is no real existence or being, beyond the ideas, that has to be taken into account. Traditional natural law theory had sought by reason or experience to find in nature a basis for the meaning of moral ideas, but the ideas that constitute Locke's moral science have no natural archetypes.

White implies that "the essence of man" has the same status in Locke's moral philosophy as these other ideas. According to Locke, however, the idea of "man" falls under the heading of "substances" rather than mixed modes, which means that this idea is formed by reference to something external to the mind. The "essence" of man is something more than the idea we form of man, so that propositions about the human essence cannot be true in a strictly analytic or self-evident way. This does not mean, however, that Locke accepts the traditional view that man's essence is intelligible to the human understanding. According to Locke, the idea of "man" cannot truly represent the inner constitution or being that makes a man what he is, since "real essences" are completely unknown to us. The idea of "man" can stand for nothing more than a "nominal essence," which our minds assemble from their experience of coexisting qualities. Locke even grants that the human essence or species is variable, since people in fact form different ideas of "man." The species "man" is the workmanship of the understanding rather than of nature, and there is no natural or experimental basis for settling disagreements as to what a true man is.


White's account of Lockean moral philosophy gives a misleading picture of both the method and the substance of Locke's natural-law teaching and blurs important differences between Locke and the Aristotelian tradition. Yet according to White, there is "no doubt" that Madison and Hamilton were influenced by Locke's epistemology of natural law, as thus described. White claims that Publius defined man's essence by a strictly a priori method and would not have appealed to experience. Reasoning from the attributes of this God-given essence, Publius supposedly derived man's duties to preserve his life, perfect his essence, and pursue happiness. These are also natural rights, "simply because the duty to perform an action implies the right to perform that action."

White's book offers no substantial evidence that Publius actually understood natural duties and rights in this way. Having made this unsupported assumption, White proceeds to select out a few statements by the authors of The Federalist that relate in some vague way to Locke, but also to other political philosophers. These isolated statements are then put forward as proof that Publius was in full agreement with the so-called Lockean epistemology of natural law.

White attempts to link Madison to the Lockean natural-law teaching by citing two brief passages from The Federalist and one from the 1785 Memorial and Remonstrance. In No. 43, Madison refers to "the transcendent law of nature and of nature's God." He is speaking in this context only of a law that governs societies, not individuals; the law in question encompasses "the great principle of self-preservation," which sounds more Hobbesian than traditional. Nevertheless, White leaps to the conclusion that Madison intends here to endorse not only the full body of self-evident truths of the Declaration of Independence, but also what he has described as "a Lockean moral philosophy of natural rights and natural duties." In No. 51, Madison speaks of "the state of nature" and of the danger there that leads the strong as well as the weak to seek the protection of government. This single reference makes it "especially evident" to White that Madison is endorsing the body of Locke's moral philosophy, even though Madison says nothing in No. 51 about Locke or natural rights and natural laws. In his Memorial and Remonstrance, Madison declares it to be "a fundamental and undeniable truth" that "[r]eligion 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 or violence." White asserts that by "undeniable," Madison must have meant "self-evident," so that he must have shared Locke's view that Morality is a demonstrative science,
like mathematics. Madison speaks here only of the right of religious freedom, and he traces this right to the impossibility of coercing opinions as well as to the duty that we owe to our Creator. Yet White takes this passage as evidence that the American colonists derived the full range of inalienable rights from our duty to God. Jefferson, Madison, and Hamilton, we are told, must have regarded statements about these rights not as empirical statements about men, but as "truths which could be axioms or theorems in a demonstrable science of morality that Locke thought was constructible but never constructed."

I have reviewed the full body of evidence, such as it is, that White offers for his conclusion that Madison was a "Lockean rationalist" in morals. As we have seen, it is doubtful that Locke himself adopted the method or the principles that White attributes to him. Yet White avers, on the basis of isolated references here and there to the state of nature, to the laws of nature, and to religious duties, that Madison must have followed the same method and held the same principles.

Since White's argument applies broadly to "Publius" and not just to Madison, he must bring Jay and Hamilton under the umbrella of Lockean rationalism. All that he gives us in Jay's case is a statement from The Federalist No. 2 to the effect that the people must cede some of their natural rights to government in order to vest it with requisite powers. On the surface at least, the evidence of Hamilton's moral rationalism is more compelling. In writings of 1774-75, Hamilton employed the concepts of natural law and natural rights, and he observes that to deny the principles of natural law "will be not less absurd, than to deny the plainest axioms." This passage can be read as asserting only an analogy or parallel between mathematical and natural-law principles, but White takes it to mean that Hamilton accepted "Locke's theory that morality could become a demonstrative science." White finds further support for this claim in No. 31, but he badly distorts Hamilton's actual statement. According to White, Hamilton asserts here that there are primary truths or first principles in morals, and that these moral or ethical statements—to quote Hamilton—"contain an internal evidence, which antecedent to all reflection or combination commands..."

5. White shows that Madison's argument for freedom of conscience closely parallels an argument by Francis Hutcheson, but he dismisses summarily the possibility that Madison could have adopted Hutcheson's doctrine or moral sense. I wonder, however, whether Madison used the term "undeniable" here to apply to the moral sense or to principles derived from this sense. In The Philosophy of the American Revolution, White himself grants that an "undeniable" truth need not be strictly self-evident, i.e., it may be deducted from self-evident principles.
the assent of the mind.” What Hamilton actually says is that such primary truths or first principles are found “in disquisitions of every kind,” not just in morals and geometry. He goes on, in fact, to mention politics specifically as one of the sciences that rest on primary truths or first principles. Hamilton is not saying here that morals or ethics is a demonstrative science like mathematics. He is suggesting instead that all sciences, including experimental sciences such as politics, are in a way analogous to geometry in having some first principles. Moreover, the examples that Hamilton gives here of first principles in ethics and politics have nothing to do with natural rights or natural law, but include such maxims as “there cannot be an effect without a cause” and “the means ought to be proportioned to the end.” Hamilton’s endorsement of the former maxim leads White to argue that Hamilton was not constant in his devotion to Hume. Yet Hume himself thought it proper for the moral or political scientist to assume the truth of the principle of causality, even though this maxim is drawn into question by deeper and more skeptical reflections.

White’s account of the epistemology of The Federalist leads him to offer distinctive interpretations of that work on two important points. The first concerns Publius’s way of reconciling natural rights with the public interest. According to White, Publius regarded his statements about the natural rights of individuals as true in a self-evident or demonstrative way. They were meant to be tested by a logical analysis of man’s essence and of the duties imposed on man by his Creator. Yet White interprets Publius’s statements about the interest, good, or happiness of the public as having an empirical or experimental foundation. Statements about the public interest are thus separated by an “epistemological gulf” from statements about the natural rights of the individual. Both kinds of statements are moral or ethical in character, but their truth is tested in different ways.

I find this line of argument neither clear nor persuasive. Let us grant that a statement about an individual’s natural rights is derived merely from reasoning about ideas. How would a statement about the public’s interest be different? White seems on occasion to attribute to Publius the view that the public good, happiness, or interest is itself “discernable empirically.” This interpretation runs counter, however, to White’s broader claim that Publius relied on reason alone to establish the meaning of moral terms. If the good or happiness of the public can be discerned empirically, why could we not discern the individual’s good or happiness in the same way? On other occasions, White seems to say that Publius relies on experi-
ence merely to determine the means for attaining the public good or happiness, or else the degree to which it has been attained, rather than what that good or happiness is. If, for example, Publius were to say that the public is in a happy condition or that the public happiness is promoted by some law, he would intend these as empirical statements which can be tested by observation. The problem with this argument is that parallel statements about the good or happiness of individuals would seem to be testable in the same way: for example, the statement that individuals are enjoying their natural rights or that such enjoyment is promoted by some law. Even granting that *The Federalist* has a hybrid epistemology, White has not established that its statements about the public good have a different foundation from its statements about the good of the individual.

White insists, nevertheless, on interpreting Publius's statements about natural rights and about the public good as if they were divided by an "epistemological gulf." According to White, Madison's and Hamilton's epistemology required them to elevate the protection of natural rights above the promotion of the public good, since statements about the former are always more certain than statements about the latter. White believes that Madison did in fact give priority to natural rights in most instances, but in one area—that of slavery—Madison was inconsistent. When his defense of the Constitution forced him to choose between the slaves' right to liberty and the slaveholders' right to property, Madison chose to defend slavery by appealing to the public good: "To insist that the slaves be given their liberty, he seems to have said in reply, would violate the right of the American people to pursue happiness by avoiding the dismemberment of the Union, and therefore he accepted the continuation of slavery." In this case, at least, Madison was willing to put what was "politic" above what was honest or just. White contends that Hamilton was much more willing than Madison to disregard the implications of their epistemology and to subordinate the people's natural rights to energy and efficiency in government.

The substantive issue raised by White's analysis is whether Madison and Hamilton thought that the individual's natural rights could in fact be in conflict with the public good, and whether in cases of such conflict they would have given priority to the latter. Clearly such conflicts can arise if the right to life and liberty is inalienable—consider, for example, the case of the person drafted into military service or even the person punished for a crime. By and large, however, the authors of *The Federalist* thought that the pub-
lic good requires the protection of individual rights, so that energetic government serves the interests of the individual as well as those of the community. This point is stated clearly in a long passage that White quotes from No. 1, where Hamilton observes “that the vigour of government is essential to the security of liberty; that, in the contemplation of a sound and well informed judgment, their interest can never be separated.” White detects “code words” in this passage which lead him to conclude that Hamilton was not seriously interested in protecting the liberties that were central to the Revolution. This seems to be another instance, however, where White is guided by his preconceptions rather than by textual evidence.

As for Madison’s alleged inconsistency on the issue of slavery, it is true that he saw this institution as a violation of the natural rights of the slaves. It is also true that Madison regarded union as vital to the happiness of the American people, and that he was willing to guarantee the protection of property in slaves in order to bring the southern states into the union. Yet this was not a simple case, as White would have it, in which individual rights were being sacrificed to the public good. Madison believed—correctly, I think—that union would serve the interests even of slaves, since the eventual abolition of slavery would be more likely with union than with the states divided into northern and southern confederacies. Of course, the politics of the struggle for ratification prevented him from saying so.

White’s interpretation of the epistemology of The Federalist leads him to a distinctive position also on the long-standing debate as to whether or not the principles of the Constitution are consistent with those of the Declaration of Independence. After the turn of the present century, many historians came to view the Constitution as an effort by a wealthy elite to curb the demand, flowing from the Revolution, for equality and democracy. More recently, other interpreters, most notably Martin Diamond, have defended the Constitution on democratic grounds and have denied that its principles are opposed in any fundamental way to those of the Declaration. White incorporates elements of both views. On the one hand, he finds that The Federalist embodies the same epistemological and moral principles as the Declaration. White thus opposes, for example, Gordon Wood’s suggestion that the Constitution’s defenders gave new and different meanings to the terms of the Declaration. Nevertheless, he accepts the old claim that the Constitution’s de-

fenders were "aristocratic" or "elitist" in their view of politics. He thus reaches a distinctive conclusion about the relationship of *The Federalist* to the Declaration: They embody the same philosophical principles, but those common principles have elitist implications. This elitist potential remained latent during the Revolution, but it was activated in 1787-88 by such Federalists as Madison and Hamilton.

In White's view, the Declaration and *The Federalist* are elitist in principle because they assume that men are not equal in their capacity to discern the truth about morals and politics. Once it is established that some are better able than others, because of their greater learning or their freedom from bias and passion, to see the self-evidence of moral truths or the soundness of experimental principles in the science of politics, these superior reasoners can elevate themselves above the rest and become what Locke had called "dictators of principles." White believes that these elitist assumptions find clear expression in Publius's teachings on politics. Political elitism "is blatantly present in *The Federalist* in spite of the many genuflections that are made in the direction of the people." Publius may sometimes seem to say that the people are capable of governing themselves, but White thinks that in these passages Publius simply flatters his readers and "plays to the gallery." White thus rejects Publius's own claim to be a friend of the people and a champion of republican government.

In assessing this argument, we must note that White's various formulations of it partake of an inconstancy and imprecision that are not unusual in this book. In the most extreme formulations, Publius is said to have thought that the principles of morals and politics "could be perceived only by the few," or by "a special sort of person." If Publius had truly held such an exclusivist position, then the charge of political elitism might have some credibility. In other formulations, however, Publius's epistemology seems not to be elitist at all. Majority rule would hardly seem to be endangered by the view that "certain members of the community were better able . . . to discover the truths of natural law than the majority of the people were," or that the discovery of truth in morals and politics "could require an expertise that not all men possessed." White shifts back and forth between these formulations, apparently unaware of the difference between saying, on the one hand, that truth can be perceived *only* by a few, and, on the other, that the few surpass the many in perceiving the truth or that "not all" are able to perceive it.

On one occasion, White quotes a lengthy passage from No. 63
in which Madison explains clearly how the judgments of the few and the many are to be related under the proposed Constitution. According to Madison, "the cool and deliberate sense of the community ought to in all governments, and actually will in all free governments ultimately prevail over the views of its rulers." Nevertheless, there will arise "particular moments in public affairs" when the people will be drawn or misled into calling "for measures which they themselves will afterwards be the most ready to lament and condemn." It will be salutary "in these critical moments" for a respectable body of citizens, such as the proposed Senate, to check the progress of the measure "until reason, justice and truth, can regain their authority over the public mind." White takes these remarks as expressing an elitism or "parentalism," since the people have to be protected by a respectable body of citizens from the tyranny of their own passions. Yet Madison's words hardly support such an interpretation. Madison is very clear that the senatorial checks on the popular will are only occasional and temporary. In a properly constituted republic, the will of the people must prevail in the long run. Contrary to White's interpretation, Madison does count on the people to understand their own rights and duties and to make sound judgments about the policies of government.

White's comments suggest that he has given very little thought to the relationship of philosophy and democratic government. If it is undemocratic to say that some are more perceptive than others about natural rights or the public interest, or that not everyone can perceive these things adequately, then it is difficult to envision a defensible epistemology that would support democracy. Must a democrat assume that all persons understand politics equally well? Must he identify the truth with what the people finally embrace in the marketplace of ideas, so that no independent standpoint remains for judging the popular views? White calls into question the democratic credentials of the American founders, but he gives no indication of what a suitable epistemology for democratic government might be.

I have focused on White's effort to extract a theory of knowledge from The Federalist, but he discusses other philosophical themes as well. In sections on "psychology" and "theory of action," he has some sensible things to say about Publius's account of human motives. He promises to treat "metaphysics" in one section of the work, but says nothing substantial about that topic, aside from some observations on causality. Although his thesis requires it, White does not bother to explore how Madison and Hamilton might have understood the being of nature, of God, and of man's
essence. He simply assumes that these writers must have shared the views that he attributes, with little evidence, to Locke.

White devotes a section on “philosophy of history” to a refutation of Charles Beard’s claim, in his earlier writings, that Madison was an economic determinist. In this context, White reviews Madison’s account of the problem of faction and the “republican remedy” which the Constitution provides for this problem. White is able to show that economic motives were, for Madison, only one of the causes of factions. His account of the Madisonian solution to the problem of faction needs correction, however, on two points. First, Madison did not regard an expansion of a country’s territory and population as sufficient in itself to produce the diversity required to check majority factions. The competing interests and ways of life would have to be multiplied through the encouragement of commerce. Publius thus advocated a large, commercial republic.7 Second, White sometimes fails to distinguish between a “faction” and an interest group. At one point, he writes that “Madison wanted society to be divided into lots of factions because he wanted to prevent any one faction from becoming a majority of the people.” A bit later, he writes that Madison wanted the republic to be “divided into many interest groups that would check each other.” White tends here and elsewhere to equate “interest groups” and “factions,” even though, as he should know, a faction is an interest group that has become dangerous to others. As White himself observes at one point, a faction, for Madison, was bad by definition, since its members were actuated by an impulse adverse to the rights of other citizens or to the permanent and aggregate interests of the community. While Madison’s policy was to multiply competing interests, he certainly did not wish to multiply factions, as White suggests.

Although White attempts to put The Federalist into philosophical context, he says virtually nothing about the context of debate in which the struggle for ratification of the Constitution occurred. The reader is thus likely to be puzzled by White’s discussion of remarks by Hamilton on previous and subsequent amendments. Anti-Federalist strategy by early 1788 was to insist on previous or conditional amendments to the Constitution, which would have to be enacted before ratification could take place. The alternative which the Federalists pushed successfully was ratification first, with the promise that amendments would be considered subsequently by the new Congress. If White is aware of these strategic issues, he has

nothing to say about them. In his initial discussion, he says, correctly, that Hamilton favored subsequent amendments, but later he contradicts this by observing that Hamilton wanted to demonstrate "the wisdom of 'previous' as opposed to 'subsequent' amendment of the Constitution." Here is but another illustration of a carelessness that is all too typical of this book.

Despite its pretensions, or perhaps because of them, White's study fails to illuminate the text of The Federalist. He chides Madison and Hamilton for their "self-elevation," for thinking of themselves as superior to those who know less than they do. Yet this is exactly the posture that White assumes in relation to The Federalist. He approaches this text not with the openness of an inquirer who hopes to learn something, but with the dogmatist's confidence that he knows, better than its authors, the philosophical assumptions on which their work is based. He imposes on The Federalist a simplistic epistemology that is unlikely to have been held either by Publius or by the philosophers on whom Publius is said to have relied. White's conclusions about Publius's moral philosophy are based on thin and often tortured evidence. He leaves the problem of Publius's "metaphysics" largely unexplored. For no good reason, he questions the genuineness of Publius's dedication to popular government. White says some worthwhile things on some topics, but a carelessness of expression mars his study throughout. The idea of exploring the philosophical assumptions of The Federalist is a good one, but unfortunately this book has little to teach us on this subject.