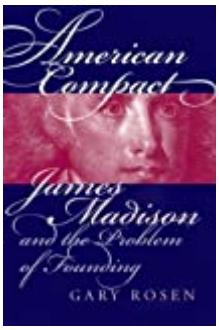
H-Net Reviews
in the Humanities & Social Sciences



Gary Rosen. *American Compact: James Madison and the Problem of Founding.* Lawrence: University Press of Kansas, 1999. xii + 237 pp. $29.95 (cloth), ISBN 978-0-7006-0960-4.

Reviewed by Stuart Leibiger (Department of History, La Salle University)

Published on H-SHEAR (May, 2000)

The goal of Gary Rosen's *American Compact* "is to rehabilitate Madison as a constitutional thinker and a statesman" (p. 2), thereby vindicating him of the oft-levelled charge of waffling between nationalism and states rights and between loose and strict construction. The key to understanding Madison's intellectual consistency, Rosen contends, is to grasp his fundamental principles, especially his ideas about the social compact.

The social compact originates, Rosen explains, when the population trades the natural rights of the state of nature for the civil rights of a political system, a transformation formalized through the writing of a constitution. According to Rosen, Madison believed that for a constitution to be legitimate, the people must play a larger role than merely to approve the finished product; they must be involved in the constitution-making process itself. But Madison confronted two huge problems in translating theory into reality during the American Founding: First, how could the people as a whole participate in constitution-making when the task far exceeded their mental capabilities? Second, why would the many factions that comprised the American public willingly yield power to a regime designed to curb them? Rosen maintains that the constitutional convention provided Madison with a mechanism to surmount these twin obstacles. For Madison, a convention would enable a small body of talented men to accomplish what the whole population could not. Unlike the larger public, Madison believed that the delegates possessed the disinterestedness and prudence ("practical wisdom" [p. 104]) that enabled them to reach difficult compromises and to transform constitutional theory into reality.

Rosen suggests that Madison believed that the Founders' task ended with the Philadelphia Convention. With a soundly-designed Constitution in place, the people could again resume the reins of day-to-day governance. Madison's break with Hamilton in the early 1790s, Rosen postulates, resulted not from a minor disagreement over strict versus loose construction, but from a fundamental dispute over the social compact. Unlike Madison, Hamilton wished to have the new federal government administered by the elite group of founders who had written the Constitution, not by faithful representatives of the people. Moreover, Hamilton wanted those elites to transform a limited government of enumerated powers that the people had ratified into an unlimited government of implied powers. Remaining consistent to his understanding of the social compact, writes Rosen, Madison organized the people into a Republican opposition party.

If Madison had huge disagreements with Hamilton over the nature of the social compact, Rosen finds that

he had equally great differences with Jefferson. Whereas Hamilton wanted the Constitution's framers to continue to dominate everyday politics, Rosen views Jefferson as veering to the opposite extreme, favoring a popular reworking of the Constitution at regular intervals. Madison opposed such "perpetual refounding" (p. 128), fearing that the document would loose its venerated status if tinkered with too often. Madison believed that the Constitution painstakingly created by a prudential elite could not be improved by the people at large.

Rosen closes with a look at the final and most controversial year of Madison's presidency, when he signed the Bank Bill, but vetoed the Bonus Bill. Where others have seen hopeless inconsistency, Rosen finds fidelity to first principles. Madison signed the Bank Bill because he believed that precedent and public acceptance had "constitutionalized" (p. 171) a national bank even though the Constitution did not provide for one. He vetoed the Bonus Bill because no such long-standing acceptance had ever constitutionalized federal internal improvements. Madison hoped his veto would send a message to the popular majority that it–just like Hamilton's aristocratic minority–had to respect the Constitution's bounds. Thus Rosen concludes that Madison defended constitutionality over utility as the standard for judging public policy.

American Compact is a wonderful book. By placing Madison's so-called twists and turns into the larger context of Madison's political theory, Rosen deftly demonstrates that Madison remained remarkably consistent to his fundamental beliefs about republican government. The chapter entitled "Confronting Jefferson and Hamilton" is especially compelling, showing that Madison occupied middle ground between his associates, employing the strengths of the democratic and aristocratic extremes. Rosen successfully rehabilitates Madison's reputation. *American Compact*, along with the work of Lance Banning, Drew McCoy, and my own recently published book, decisively vindicates Madison of the charge–first levelled by Hamilton and adopted by generations of scholars–of sacrificing principle for political gain. [1]

Occasionally, Rosen's interpretations of Madison rest on shaky ground. Two examples will suffice: First, Rosen's claim that Madison's 1783 Address to the States to grant Congress an income appealed to virtue and patriotism alone, not to fear or threats, largely overlooks the context of a threatened military coup at Newburgh. Specifically, Rosen neglects to mention the supporting documents that Madison appended to his report, which detailed the events at Newburgh. Clearly, Madison went beyond appeals to patriotism, resorting to fear to get the states to grant Congress a revenue–all to no avail.

A second instance where the facts call Rosen's interpretations into question concerns Madison's role in the First Congress. Rosen maintains that after the Federal Convention drafted the Constitution, Madison wanted everyday politics to revert back to popular hands. The problem with this claim is that Madison sought to elect the same level of talent to the First Congress that sat in the Convention. Moreover, Madison understood that the First Congress was a virtual second convention, facing issues every bit as challenging (and equally over the heads of the general public) as those the Convention faced. In short, Rosen argues that Madison did not want any branch of the federal government to turn into " 'a day to day constitutional convention' " (p. 163), when in fact, all three branches played just that role in 1789-1791, with Madison himself deeply involved in two of the branches, as a member of Congress and as an informal advisor to the president.

Although *American Compact* is a marvelous work, I must also quibble with its stance in the seemingly endless Liberalism-Republicanism debate, in which Rosen rather intransigently sides with the former view. While Madison no doubt was heavily influenced by the natural rights philosophy of Locke and others, it seems tendentious so completely to dismiss the strong marks of Radical Whig influence on his thinking. One cannot help wondering, if Madison was exclusively liberal in outlook, why he used all of the republican imagery and vocabulary, especially "liberty," "power," "virtue," and "corruption," in attacking Hamilton's financial program (especially the national bank)? Rosen only briefly addresses Madison's *National Gazette* essays of 1791-92, where his republican tendencies erupt perhaps most forcefully. It is hard, if not impossible, for me to join Rosen in entirely dismissing republicanism's impact on Madison.

Finally, I will cite an error of omission. Considering how carefully *American Compact* analyzes Madison's thought concerning the Constitution's theoretical legitimacy, it is amazing that Rosen does not devote more attention to Madison's crusade for the Bill of Rights. It hardly seems possible that a man who pondered the social compact so intently could have almost thoughtlessly, it seems, have reconciled himself to rights-related amendments–in Rosen's words–"as a harmless palliative for such foes of the new regime as still remained" (p. 1). Rosen makes abundantly clear throughout the book that

Madison acted out of higher motives than the crass political expediency Madison is often charged with in backing the Bill of Rights. Rosen emphasizes how Madison was most reluctant to see the Constitution frequently tinkered with lest it become less venerable. Surely such a man would not tolerate–let alone sponsor–amendments as "a tub to the whale," that is, as a mere sop to the Antifederalists. Indeed, Madison's crusade for rights-related amendments would have been a wonderful opportunity to test (and I believe bolster) Rosen's claims.

But these faults are minor, and detract little from Rosen's bold and persuasive analysis of the political problems posed by the American founding and the remarkable integrity, consistency, and originality with which Madison addressed them.

Note

[1]. Lance Banning, *The Sacred Fire of Liberty: James Madison and the Founding of the Federal Republic* (Ithaca, NY, 1995); Drew R. McCoy, *The Last of the Fathers: James Madison and the Republican Legacy* (Cambridge, MA, 1989); Stuart Leibiger, *Founding Friendship: George Washington, James Madison, and the Creation of the American Republic* (Charlottesville, VA, 1999).

Copyright (c) 2000 by H-Net, all rights reserved. This work may be copied for non-profit educational use if proper credit is given to the author and the list. For other permission, please contact H-Net@h-net.msu.edu.

If there is additional discussion of this review, you may access it through the network, at:

https://networks.h-net.org/h-shear/

Citation: Stuart Leibiger. Review of Rosen, Gary, *American Compact: James Madison and the Problem of Founding*. H-SHEAR, H-Net Reviews. May, 2000.

URL: http://www.h-net.org/reviews/showrev.php?id=4091

Copyright © 2000 by H-Net, all rights reserved. H-Net permits the redistribution and reprinting of this work for nonprofit, educational purposes, with full and accurate attribution to the author, web location, date of publication, originating list, and H-Net: Humanities & Social Sciences Online. For any other proposed use, contact the Reviews editorial staff at hbooks@mail.h-net.org.