

Madison's Militia: The Hidden History of the Second Amendment. By Carl T. Bogus. (New York: Oxford University Press, 2023. Pp. 336. \$29.95 cloth.)

Near the end of *Madison's Militia: The Hidden History of the Second Amendment*, Carl Bogus directly addresses the reader: "It is a good bet that by now you have spent more time thinking about what James Madison thought about the Second Amendment than Madison, himself, spent thinking about the provision" (264). This delightful bit of self-deprecation characterizes the verve and wit of this timely book, a monograph purportedly on a narrow subject that offers insights of broad historical and contemporary applicability. Bogus argues that a close examination of the context in which Madison drafted the Second Amendment reveals the text as an offering to white southerners preoccupied with containing slave rebellion and uneasy about losing control of the primary instrument for it, the militia.

In 1998 Bogus published a formative essay on the subject, ("The Hidden History of the Second Amendment," *U.C. Davis Law Review*), and here he has refined and expanded that article's argument. He packs it into a readable history accessible to anyone interested in the era's political history, or in later U.S. gun politics. To his credit, Bogus leaves the latter mostly unspoken, allowing the sources to speak to the present by implication. But, as a legal scholar, he opens with a shot at his own field's "law office history"—the cherry-picking of facts and quotes to support predetermined Second Amendment arguments—and Bogus rightly draws attention to his own record of adhering instead to the methods of professional historians. Bogus's early work has often echoed in the writings of historians interested in guns and racism, most recently in Carol Anderson's *The Second: Race and Guns in a Fatally Unequal America* (2021).

Bogus bills *Madison's Militia* as a "mystery book" seeking to answer a few pointed questions. Why did Madison write the Second Amendment? And why did the first federal Congress revise it and vote to send it to the states for ratification? His answers are unmysterious. Simply: "Madison wrote the

Amendment to assure his constituents in Virginia, and the South generally, that Congress could not deprive states of armed militia” (11). Over the course of ten chapters, Bogus explains why southerners needed such assurances and why Madison was inclined to offer them, even when, at the height of Federalist power in the early Congress, there was no great pressure to do so.

Like Bogus, previous historians, most notably Saul Cornell in *A Well-Regulated Militia: The Founding Fathers and the Origins of Gun Control in America* (2006), have downplayed claims about the Second Amendment as a statement of individual gun rights, seeing such ideas as twentieth-century inventions. They have emphasized instead the founding generation’s fears of standing armies, against which citizens’ militias were held up as virtuous alternatives. Bogus says that historians have exaggerated such fears, especially in the aftermath of repeated militia wartime failures. Maintaining local control of the militia as a slave patrol outweighed concerns about standing armies “by a factor of at least ten to one” (12). The hyperbole is the point: as Bogus sees it, there was no confusion among the founders that when southern politicians, like Virginia’s Patrick Henry, demanded state control of the militia they did so because of the internal threat of slave uprisings. Madison acquiesced to these demands.

The book’s first three chapters rely on the rich documentary record of the 1788 Richmond ratification convention, where some of the young nation’s most powerful leaders (and wealthiest enslavers) met to decide whether Virginia would adopt Madison’s Constitution. Bogus provides exhaustive but not exhausting analysis, sprinkling in personalities and backstories. He plays up the national drama—eight states had ratified the Constitution and now Virginia was in the spotlight—while dramatizing personal clashes, like that between Madison and Henry, who seemed intent on tanking both the union and Madison’s political fortunes. Madison’s later Second Amendment draft, Bogus argues, emerged from Richmond. There, Madison learned the vehemence with which southerners

insisted on local control of the militia, worried that resentful northerners might wield it against their slave system, and the extent to which a demagogue like Henry could mobilize it against Federalist plans.

The book's second half explores the militia in contemporaneous theory and practice. Bogus provides a respectable collection of founders' militia trash-talk; the greatest critic was none other than General Washington, who spent much of the Revolutionary War forced to work around the militia's ineffectiveness. A detailed wartime history of the militia demonstrates two points. First, that no serious leader believed by 1787 that the militia was a satisfactory alternative to a standing army, despite early wartime paeans to the citizen-soldier; and second, that in the wartime south, the militia's inefficacy was compounded by its double duty as both an army and a police force. Thus the shared consensus among the founders was that "militias were worthless for national defense and absolutely essential for slave control" (13).

Bogus scatters in brief histories of slave rebellion to demonstrate the persistent fear among southern whites of uprisings, a phenomenon well documented by historians like Alan Taylor. For Bogus it shows the significance of the militia as an institution of slave control even after its military prowess had been widely discredited. But while Bogus offers a satisfying history of the militia at war, the social history of the militia as an institution for slave control is mostly absent—who participated, how were they organized, what were their day-to-day activities like, and how did this all change, and presumably intensify, through the mid-nineteenth century? Such questions are mostly beyond the author's scope, but they could better reveal the links between slave control and the Second Amendment, or between such patrols and modern policing, as scholars and activists often highlight. Given the way contemporary polemics influence perspectives on gun history, *Madison's Militia* is unlikely to change minds more determined by ideology than history, but it is nevertheless an essential contribution to the historical literature on the origins of the Second Amendment.

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The California Days of Ralph Waldo Emerson. By Brian C. Wilson. (Amherst: University of Massachusetts Press, 2022. Pp. 240. \$26.95 paperback.)

By 1871, when Ralph Waldo Emerson went on an extended trip to the American West, he was already something of a cultural institution. The encounter between a treasured public intellectual and a landscape thought to represent that nation's ideals is the subject of Brian C. Wilson's *The California Days of Ralph Waldo Emerson*.

The trip to California was planned and funded by John Murray Forbes, a wealthy industrialist whose son, Will, had married Emerson's youngest daughter, Edith, six years earlier. Emerson scholars have long known of the journey, which lasted roughly a month and a half, but the episode usually receives short shrift in biographies. Emerson was considered past his prime, already slipping into the penumbral dementia that Christopher Hanlon has chronicled in *Emerson's Memory Loss*. And his record of the trip is surprisingly sketchy. Emerson's journals of this period are sparse, and most of the letters he sent home were lost. An exception is the charming note he sent his grandson describing sea lions basking off the coast of San Francisco: "Some of them are twelve feet long, that is, if they could stand upright on their hind-feet they would be twice as tall as I am." (77)

Wilson has found a way around this lack of primary source material by focusing on a cache of letters from a member of Emerson's entourage, the lawyer and constitutional law theorist James Bradley Thayer, who chronicled the trip in daily letters to his wife, Sophia Bradford Ripley Thayer. The group accompanying Emerson included Forbes's large family and Wilkie James, son of Henry James, Sr., who was still recovering from physical and psychic wounds incurred during service in the Civil War. But it is Thayer who commands center stage.