Social Philosophy Policy

Responsibility

CONTENTS

MICHAEL S. MOOKE	Causation and Responsibility	1
KENNETH W. SIMONS	Negligence	52
LEO KATZ	Responsibility and Consent: The Libertarian's Problems with Freedom of Contract	94
RODERICK T. LONG	The Irrelevance of Responsibility	118
JOHN STADDON	On Responsibility in Science and Law	146
MICHAEL STOCKER	Responsibility and the Abuse Excuse	175
ALVIN I. GOLDMAN	Why Citizens Should Vote: A Causal Responsibility Approach	201
HENRY S. RICHARDSON	Institutionally Divided Moral Responsibility	218
SUSAN SAUVÉ MEYER	Fate, Fatalism, and Agency in Stoicism	250
ALFRED R. MELE	Ultimate Responsibility and Dumb Luck	274
NANCY SHERMAN	Taking Responsibility for Our Emotions	294

Social Philosophy & Policy

ISSN 0265-0525

Editor: Ellen Frankel Paul

Associate Editors: Fred D. Miller, Jr., and Jeffrey Paul

Managing Editor: Harry Dolan

Social Philosophy and Policy Center

Editorial Board

David Braybrooke University of Texas, Austin Baruch Brody Rice University Allen Buchanan University of Arizona **James Buchanan** Buchanan Center for Political Economy, George Mason University **Jules Coleman** Yale University Jack Douglas University of California, San Diego Richard A. Epstein University of Chicago Law School James Fishkin

University of Texas, Austin

Antony G.N. Flew University of Reading (Emeritus) Martin Golding Duke University John Grav London School of Economics and Political Science Gilbert Harman Princeton University Seymour Martin Lipset George Mason University and Hoover Institution, Stanford University Eric Mack Tulane University Harvey Mansfield, Jr. Harvard University

Wallace I. Matson University of California, Berkeley Jan Narveson University of Waterloo Robert Nozick Harvard University Nicholas Rescher University of Pittsburgh David Sidorsky Columbia University Hillel Steiner University of Manchester James Q. Wilson University of California, Los Angeles Leland B. Yeager

Auburn University

Social Philosophy & Policy is an interdisciplinary journal with an emphasis on the philosophical underpinnings of enduring social policy debates. Each issue is dedicated to a particular theme chosen by the editors, with the advice of the editorial board, designed to appeal to both academic specialists and a broader scholarly audience. While not primarily a journal of policy prescriptions, several contributions to each issue will typically connect theory with practice. The editors encourage and actively pursue diversity of viewpoints of contributors. Diversity is also encouraged by selecting authors from among different disciplines, especially philosophy, economics, political science, and the law. Readers' suggestions for future themes are always welcome, as are inquiries about the topics of issues already planned.

Editorial Office: Social Philosophy and Policy Center, Bowling Green State University, Bowling Green, OH 43403, USA.

Publishing, Subscription, and Advertising Information: See inside back cover. Copyright © 1999 Social Philosophy and Policy Foundation

All rights reserved. No part of this publication may be reproduced, in any form or by any means, electronic, photocopying or otherwise, without permission in writing from Social Philosophy & Policy. Photocopying information for users in the USA: The Item-Fee Code for this publication (0265-0525/99 \$9.50) indicates that copying for internal or personal use beyond that permitted by Sec. 107 or 108 of the U.S. Copyright Law is authorized for users duly registered with the Copyright Clearance Center (CCC) Transaction Reporting Service, provided that the appropriate remittance is paid directly to: CCC, 222 Rosewood Drive, Danvers, MA 01923. Specific written permission must be obtained from Social Philosophy & Policy for all other copying.

CONTRIBUTORS

Michael S. Moore is Leon Meltzer Professor of Law, Professor of Philosophy, and Co-Director of the Institute of Law and Philosophy, at the University of Pennsylvania. He has previously taught at Stanford University, the University of Virginia, Harvard University, the University of California at Irvine. His books include Placing Blame: A General Theory of the Criminal Law (1998), Act and Crime: The Implications of the Philosophy of Action for Criminal Law (1993), Law and Psychiatry: Rethinking the Relationship (1984), Foundations of Criminal Law (1998, with Leo Katz and Stephen Morse), and Metaphysical Foundations of Jurisprudence (forthcoming in 1999).

Kenneth W. Simons is Professor of Law at Boston University. He holds a baccalaureate degree in philosophy from Yale University and a law degree from the University of Michigan. A former law clerk to Justice Thurgood Marshall of the United States Supreme Court, he has written in the fields of tort law, criminal law, constitutional law, and law and philosophy. His publications examine a variety of law and philosophy topics, including consent, assumption of risk, and contributory negligence; corrective justice; mental states in criminal, tort, and constitutional law; mistake and impossibility in criminal law; and the logic of egalitarian norms.

Leo Katz is Professor of Law at the University of Pennsylvania. He writes about moral issues having to do with criminal and corporate law, and is the author of *Bad Acts and Guilty Minds: Conundrums of the Criminal Law* (1987) and *Ill-Gotten Gains: Evasion, Blackmail, Fraud, and Kindred Puzzles of the Law* (1996).

Roderick T. Long is Instructor in Philosophy at Auburn University, as well as Foundation Scholar of the Free Nation Foundation. He received his B.A. from Harvard University in 1985, and his Ph.D. from Cornell University in 1992. He has served as Assistant Professor of Philosophy at the University of North Carolina at Chapel Hill, Visiting Assistant Professor at the University of Michigan, and Visiting Scholar at the Social Philosophy and Policy Center at Bowling Green State University. He has published in the areas of moral and political philosophy, ancient philosophy, and philosophy of action, and is the author of a book manuscript entitled *Aristotle on Fate and Freedom*. He is currently at work on a book tentatively titled *Duty and Advantage: Toward a Reconciliation*.

John Staddon is James B. Duke Professor of Psychology, and Professor of Zoology and Neurobiology, at Duke University, where he has taught since

CONTRIBUTORS

1967. His research is on the evolution and mechanisms of learning in humans and animals, and he edits the journals *Behavioural Processes* and *Behavior & Philosophy*. He is the author of a number of experimental and theoretical papers and of three books: *Adaptive Behavior and Learning* (1983), *Learning: An Introduction to the Principles of Adaptive Behavior* (with R. Ettinger, 1989), and *Behaviorism: Mind, Mechanism, and Society* (1993). He is also the editor of *Handbook of Operant Behavior* (with W. K. Honig, 1977), *Limits to Action: The Allocation of Individual Behavior* (1980), and *Models for Action: Mechanisms for Adaptive Behavior* (with C. D. L. Wynne, 1998).

Michael Stocker is Guttag Professor of Ethics and Political Philosophy at Syracuse University. He has written numerous articles on topics in ethics and moral psychology, dealing with emotions, affectivity, pleasure, friendship, and love. His book *Plural and Conflicting Values* (1990) develops a moral theory that takes seriously our concrete experience of the demands of morality, including our experience of moral conflict; and his most recent book, *Valuing Emotions* (1996), is a study of emotions from the perspective of ethics, moral psychology, and psychoanalysis.

Alvin I. Goldman is Regents Professor of Philosophy at the University of Arizona. He is best known for his work on action theory, epistemology, and philosophy of cognitive science, including such books as *A Theory of Human Action* (1970), *Epistemology and Cognition* (1986), and *Philosophical Applications of Cognitive Science* (1993). In the area of social theory, he has written on the nature of social power, on legal procedure, and on democracy. The latter two topics are treated in his recent book *Knowledge in a Social World* (1999).

Henry S. Richardson is Associate Professor of Philosophy at Georgetown University. He is the author of *Practical Reasoning about Final Ends* (1994) and of essays on moral reasoning and its history, on liberal political theory, and on democratic deliberation. His current area of interest is the nature of a democracy's reasoning about ends.

Susan Sauvé Meyer is Associate Professor of Philosophy and Director of the Graduate Program in Philosophy at the University of Pennsylvania. She received a B.A. in Philosophy and Greek from the University of Toronto in 1982, and a Ph.D. from the Classical Philosophy program at Cornell University in 1987. She was Assistant and Associate Professor of Philosophy and of the Classics at Harvard University from 1987 to 1994. She is the author of *Aristotle on Moral Responsibility: Character and Cause* (1994), and of articles on moral and natural philosophy in the ancient world.

Alfred R. Mele is Vail Professor of Philosophy at Davidson College. He is the author of *Irrationality* (1987), *Springs of Action* (1992), and *Autono-*

CONTRIBUTORS

mous Agents (1995), and his edited books include The Philosophy of Action (1997) and Mental Causation (1993).

Nancy Sherman is Professor of Philosophy at Georgetown University and Visiting Distinguished Chair in Ethics at the United States Naval Academy (1997–1999). She is the author of *The Fabric of Character: Aristotle's Theory of Virtue* (1989) and *Making a Necessity of Virtue: Aristotle and Kant on Virtue* (1997), and the editor of *Critical Essays: Aristotle's Ethics* (1999). Her publications include numerous articles in ancient philosophy and Kantian ethics, as well as essays in moral psychology and psychoanalysis. She has taught previously at Yale University, and has held visiting posts at Johns Hopkins University and the University of Maryland. She received her Ph.D. from Harvard University.