A second comment that struck me is that "officials and bureaucrats can wall themselves off from public accountability and *feather their own nests*" (p. 23; emphasis added). Perhaps elected officeholders have that opportunity, but how many civil servants really do? I know plenty of career civil servants—in the United States and elsewhere—who are not in the business of feathering their own nests.

A third comment puzzled me: The authors call the delegation of tax collection to private revenue agents in ancient Rome and the British East Indian Companies (BEIC) examples of CG. Let us be clear. There is no CG conceivable before the early nineteenth century. Tax farming was widespread until the 1850s and cause for much unrest among the disenfranchised. Most rebellions started as tax revolts. And the BEIC exemplifies how the social, economic, and political elites of the day (one small, happy family) managed to wall off the exploitation of far lands from domestic politics. In fact, those in politics also held positions in corporations such as the BEIC.

When all is said and done, Donahue and Zeckhauser have written an appealing book that, once again, conceives of collaboration as possible. *Collaborative Governance* targets the world of both practitioners and policy bureaucrats. It is pragmatic, as Associate Justice Stephen Breyer observes in his foreword. The scholarship upon which the book is based cannot be doubted, but the authors first and foremost desired to reach out to the real world by displaying successful and failing efforts at CG. So they believe in its potential, but do not come across as acolytes or salesmen peddling a product. Justice Breyer's final remark is on the mark; the authors are nonideological, while at the same time being idealistic in their message: It is time to recognize that "government is not 'us vs. them'; rather, government is 'us *and* them,' working together" (p. xiii; emphasis original). The public, nonprofit, and private sectors will need one another to meet on the basis of respect for the strengths of the other. This book's optimism is a delightful step in that direction.

**American Politicians Confront the Court: Opposition Politics and Changing Responses to Judicial Power.**
By Stephen M. Engel. New York: Cambridge University Press, 2011. 408p. $99.00 cloth, $32.99 paper.
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— David F. Ericson, *George Mason University*

This is a highly ambitious book. It integrates the scholarship on American political culture, party development, judicial politics, and legal history. It also utilizes several of the key conceptual tools of the American political development literature, such as "courts and parties," "situated rationality," "institutional thickening," and "policy entrepreneurship." Given Stephen Engel's high ambitions, it is not surprising that the payoff falls somewhat short of the promise. Nonetheless, the book has significant payoffs.

The author's central argument is that changing evaluations of the legitimacy of party competition explains the changing nature of antijudicial politics in the United States. More precisely, the argument is that the shift from the dominant party viewing the opposition party as illegitimate to recognizing the legitimacy of political opposition explains the shift from undermining to harnessing strategies directed toward the federal judiciary. At that point, the intention of party leaders is not to undermine judicial authority but, rather, to harness it to some partisan policy objective, such as by encouraging the Supreme Court to make decisions more supportive of New Deal programs (Franklin Delano Roosevelt's court-packing scheme), or to gain some partisan electoral advantage, such as by attacking an "activist" Court, because such attacks play well with the party faithful (the threatened impeachment of William O. Douglas). The corollary is also important. What does *not* explain the shift in the nature of antijudicial politics is the emergence of a norm of judicial supremacy because then we would expect to see a decline in antijudicial politics rather than merely a shift in its nature.

This is a novel argument. It revises the emergence of "judicial supremacy" literature (by Robert Clinton, Justin Crowe, and Barry Friedman). It also contests the revisionist scholarship (of Robert Dahl, Mark Graber, and Keith Whittington) that claims the judiciary's "countermajoritarian difficulty" is not really a difficulty, at least not for long, because the judiciary is integrated into a policy regime that encourages supportive rather than antagonistic relations among the three branches of government. Engel's book is at its best when it recounts how the antagonism remains, as in Congress's reactive court-curbing attempts in school-integration cases and in its preemptive jurisdiction-stripping attempts in "enemy combatant" cases.

Engel also provides a convincing explanation of the changing evaluations of party competition. His explanation works on a cultural level, as he tracks a gradual shift from civic republicanism to liberal pluralism. Civic republicans hold a unitary view of the public good so that if multiple views of the public good exist, one or more of those views must be wrong. In contrast, liberal pluralists admit, and even embrace, the legitimacy of multiple views of the public good. The novelty of Engel's account is how he applies this distinction to constitutional interpretation, as an expansion of legitimate interpretative methodologies, from "originalist" to "living constitution." The author also allows for the possibility of reversal, highlighting the recent revival of originalist methodologies.

Engel's broader argument is, however, problematic on two counts. First, the shift from undermining to harnessing strategies could well be an indication of the emergence of the norm of judicial supremacy. The author repeatedly claims that if such a norm exists, then we would not see repeated attacks on the Supreme Court. But he never addresses the counterargument that harnessing strategies

are themselves recognition of such a norm because they presume that most Americans view the Court's interpretation of the Constitution as supreme over all others. Why else attempt to harness it?

The second problem is that, even if the shift in strategies is a marker of what Engel claims it to be, the difference between undermining and harnessing strategies is in the eyes of the beholder. In his eyes, the historical trend line appears to color his vision of individual cases. For example, the Samuel Chase impeachment must be undermining, not harnessing, because it is in the early nineteenth century. Similarly, the congressional court curbing in school-integration cases must be harnessing, not undermining, because it is in the late twentieth century.

To discuss these two key cases in somewhat more detail, Engel argues that Jefferson strongly believed in an unified, one-party government, which is his fairly innovative interpretation of Jefferson's famous inaugural statement that "we are all Republicans; we are all Federalists" (p. 101). Jefferson thus wanted to undermine the authority of a Federalist-dominated judiciary by purging it of its most partisan members, not only Chase but also John Pickering and perhaps even John Marshall (pp. 104–5). According to Engel, Chase's near conviction in the Senate resulted in the emergence of the "second-best" solution of judicial neutrality (pp. 128–30), sending a signal to the judiciary to remain above politics and not engage in blatantly partisan rulings, as Chase allegedly had (pp. 120–22). But perhaps Jefferson's original intention was to harness, not undermine, judicial authority in precisely this way. Or perhaps Jefferson even intended a more positive result, to make the judiciary more pliant to his policy agenda. Engel does not meet either of these possible counterarguments. To insist that Jefferson did not believe the Federalists were a legitimate opposition party is simply not sufficient for uncovering what his motives might have been in particular cases.

The second case is even more problematic. Engel argues that President Richard Nixon wanted to harness, not undermine, a Democratic-leaning judiciary by only appearing to deny it a politically unpopular policy tool in school-integration cases. As he interprets this policy episode, the initial court-curbing legislation in 1972 did not actually limit the judiciary's ability to order school-busing plans because, at the Senate's insistence, it contained ambiguous language allowing exceptions "as the Constitution requires" and was also redundant in the sense that the Supreme Court was already moving in the direction of limiting its own use of the busing remedy (pp. 317–18). Yet given the *Swan* v. *Charlotte Mecklenberg Board of Education* (1971) decision, it seems a stretch to argue that the Court was moving to limit itself in school-integration cases (pp. 315–16). Not surprisingly, Nixon's signing statement called the anti-busing language in the 1972 legislation "inadequate, misleading and entirely unsatisfactory" (p. 319). The *Keyes* v. *School District No. 1* (1973) decision not only showed the "inadequacies" of the initial legislation but also belied any trend toward the Court limiting itself (p. 318, n. 7). The House thus passed a much tougher anti-busing bill in 1974. This time the Senate was, however, even more successful in softening the bill in conference committee, including retaining the "except as the Constitution requires" language (pp. 320–21).

To cap off this policy episode, Engel reads the *Milliken* v. *Bradley* (1974) decision, which was announced only six days before the House approved the conference bill, as continuing a trend of the Court limiting itself (p. 321). Yet given the apparent absence of any such trend, the decision may equally be read as an embattled Court reacting to a series of congressional and presidential attempts to undermine its authority. Indeed, it could be argued that Nixon and the House Republicans intended to undermine judicial authority more through anti-busing legislation in 1974 than Jefferson and the House Democratic-Republicans did through the Chase impeachment in 1805, which, after all, was ultimately unsuccessful. Nixon may have accepted the legitimacy of an opposition party more than Jefferson did, but it is not clear that he accepted the legitimacy of a recalcitrant judiciary more than Jefferson did.

Obviously, much more could be said on each side of this "debate," but I found Engel's handing of these two cases unpersuasive. Other parts of the book, such as his treatment of judicial and decision recall (pp. 240–48) and presidential signing statements (pp. 348–54), were more persuasive. By the end of *American Politicians Confront the Court,* he certainly had persuaded me of his closing argument, that antijudicial politics will remain a recurrent feature of the American regime, not because the judiciary faces any countermajoritarian difficulty but because it makes good politics (p. 382).

**The Political Philosophy of Alexander Hamilton.** By Michael P. Federici. Baltimore: Johns Hopkins University Press, 2012. 304p. $50.00 cloth, $24.95 paper.

**Theodore Roosevelt and the American Political Tradition.** By Jean M. Yarbrough. Lawrence: University Press of Kansas, 2012. 400p. $39.95.
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— Eldon J. Eisenach, *University of Tulsa*

When political parties structured our political thought, Alexander Hamilton and Thomas Jefferson symbolized the poles of our theoretical and constitutional possibilities. "Hamiltonian" represented psychological, political, and economic realism anchored in the executive and judicial powers of the Constitution. The short title of a book on Hamilton is *The Effective Republic* (Harvey Flaumenhaft, 1992). "Jeffersonian" represented both strict readings of federal constitutional powers represented by the