

Dworkin, democratic politics does concern itself with fundamental matters of principle, and does secure freedom adequately—in other words, that it promotes the values that constitutionalists say they care about. But I cannot see what differentiates the “legal constitutionalism versus political constitutionalism” argument from a “constitutionalism versus democracy” argument, save that “constitutional” has become an attractive word and Bellamy does not wish to forfeit its rhetorical advantages.

The Constitutional Presidency. Edited by Joseph M. Bessette and Jeffrey K. Tulis. Baltimore: Johns Hopkins University Press, 2008. 384p. \$61.00.
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— Steven Kautz, *Michigan State University*

Thirty years ago, the editors of this volume published *The Presidency in the Constitutional Order* (1981). That book contributed to the rebirth of a political science of constitutionalism, not only but not least by calling attention to the work of Herbert J. Storing (p. viii), a distinguished political scientist who placed the Constitution at the heart of his understanding of American politics. In the intervening years, some things have changed. It is no longer quite as true as it then was that political scientists “tend not to attach much explanatory weight to the Constitution in their accounts of American politics” (p. 8). Indeed, a growing number of political scientists recognize that “constitutional analysis may be indispensable to an adequate description of political behavior” and thus seek “to develop a distinctly political (and not merely legalistic) understanding of the constitutional presidency” (pp. viii–ix). The battle against a myopic legalism in constitutional analysis was won by political scientists some time ago. Indeed, many of the finest constitutional lawyers today are also political scientists of a sort, who recognize the necessity to explain “the connection between constitutional forms and political practice” (p. 4). Today, it is widely recognized that constitutions matter, and the task of political scientists and constitutional lawyers alike is to explain how they matter, without returning to the empty formalism of the past. *The Constitutional Presidency*, like its predecessor, is an important contribution to that inquiry, to the search for a *political* understanding of the *constitutional* presidency.

The essays in *The Constitutional Presidency* are united in defense of an energetic executive; in defense of the constitutional republic (against more populist conceptions of democracy); and, as I have already indicated, perhaps above all in defense of a certain way of doing political science. Two or three of the contributors do not join every part of the common project, but altogether, the volume advances a reasonably unified and coherent argument about presidential power, about constitutionalism, and about political science. In each of these respects, the book is timely. Thirty years ago, after Vietnam and Watergate, the presidency was

a diminished office; today, after 9/11 and in light of controversies about the “unitary executive” and the expansion of presidential power during the tenure of President George W. Bush, the office is no longer diminished, but it *is* again vulnerable to the attacks of those who reasonably fear the illiberal and undemocratic tendencies of overweening executive power. The contributors to this volume present a judicious and sober case for an energetic executive, taking into account the place of the presidency in the constitutional order, subject to both constitutional and political challenges by Congress, the courts, and ultimately the people: “a constitutional arrangement that allows for a substantial degree of executive initiative and discretion within a framework of political checks is more effective and less dangerous than a set of arrangements that so constrains and restricts the executive power as to render it incapable of carrying out its proper tasks or that makes it necessary to set aside the Constitution to do what the good of the community requires” (p. 24, from the introductory chapter by the editors).

In regard to constitutionalism more broadly, two paradoxes of democratic constitutionalism emerge in this volume that may prove to admit only practical and imperfect solutions. First, a number of the contributors to the volume are troubled by the continuing ascendance of the plebiscitary or “rhetorical” presidency in recent years. As James W. Ceaser argues in his essay in this volume, “the office of the presidency is probably more ‘friendly’ to the use of demagoguery today than it was in the past” (p. 288). But that problem may prove to be insoluble in democratic constitutions: as Gary J. Schmitt argues in his essay in this volume, “it is naïve to think . . . that a separation of powers clash will be resolved simply independent of the character and direction of public opinion, an opinion likely to be energized by the stakes at hand” (p. 74). Second, there is some reason (as recent events might be thought to confirm) to think that the tension between rule of law and executive discretion cannot be resolved constitutionally, but only politically. Thus, Lincoln—even or especially Lincoln—writes: “measures, otherwise unconstitutional, might become lawful, by becoming indispensable to the preservation of the Constitution, through the preservation of the nation” (quoted on p. 19). These two paradoxes of democratic constitutionalism are a theme in many of the essays in this volume.

It is not possible to do justice here to all of the fine essays that are included in *The Constitutional Presidency*. After an introductory essay by the editors that canvasses prevailing understandings of presidential power, the volume includes ten essays that might be divided (though the editors do not do so) into three groups. The first three essays discuss presidential power in historical perspective (an essay on the meaning of Article II that emphasizes the logic connecting the *powers* and the *duties* of the presidential office, an essay on Washington’s Proclamation of Neutrality, and an essay on a

neglected debate between Theodore Roosevelt and William Howard Taft about the constitutional foundations of presidential power that criticizes Roosevelt's "stewardship" theory of the office). Gary J. Schmitt's essay on "President Washington's Proclamation of Neutrality" is especially bracing for partisans of the energetic executive. It was precisely Hamilton, he argues, "who appears most concerned with bolstering the exercise of these discretionary authorities with extraconstitutional, popular support" (p. 74). An energetic executive, sometimes required as a bulwark against democratic folly, will inescapably depend on the same public opinion that it must sometimes correct. Five essays follow on contemporary controversies regarding recent expansions of executive power (on *Bush v. Gore*, on military tribunals and the power of prerogative, on executive orders, on the relation between Congress and the president in budget matters, and on executive privilege). David A. Crockett's essay on "Executive Privilege" is a particularly persuasive example of an argument demonstrating that political contestation over constitutional powers will sometimes be inescapable (cf. p. 243). The volume concludes with two more theoretical essays that are each worth the price of admission: an essay by Jeffrey K. Tulis on "Impeachment in the Constitutional Order," and an essay by James W. Ceaser on "Demagoguery, Statesmanship, and Presidential Politics." In his excellent essay, Tulis argues that "impeachment is . . . a constitutive feature in the theory of the constitutional separation of powers," best understood as a political process disguised as a legal process. Over time, excessive legalization of the impeachment process has weakened Congress, he argues, depriving it of a "power necessary to the logic of separation of powers" (p. 245). And in his masterly concluding essay, Ceaser laments the invitations to demagoguery that the modern presidential selection process has put in place. Bulwarks against demagoguery remain—above all, the dignity of the office combined with structural securities against the pressures of public opinion. But vigilance, he argues, is nevertheless required.

The Constitutional Presidency is ultimately not only about the constitutional politics of executive power or about the place of the presidency in the constitutional order. It is also a fine book about the nature and limits of constitutionalism more generally.

Struggles for Local Democracy in the Andes. By John Cameron. Boulder, CO: FirstForum, 2009. 365p. \$75.00.

Indigenous Citizens: Local Liberalism in Early National Oaxaca and Yucatan. By Karen D. Caplan. Palo Alto, CA: Stanford University Press, 2009. 304p. \$60.00.
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— Amalia Pallares, *University of Illinois at Chicago*

At first glance, these two works seem to have little in common besides analyzing local politics in rural communities with indigenous populations. While John Cam-

eron's book studies contemporary democratization in six different municipalities in Bolivia, Peru, and Ecuador, Karen Caplan's book analyzes the local implementation of liberalism in early nineteenth-century Mexico. However, both works share several common themes: an interest in explaining the politics of everyday governance; a focus on the interrelationship among social, economic, and cultural histories and contexts and administrative and political change; and an emphasis on the role that rural indigenous citizens have played in shaping and reshaping political practice and institutions. While this latter point appears more evident in the contemporary setting for those familiar with the political effect of indigenous movements, it seems less obvious in the early nineteenth century, given that traditional historiography has understood liberalism as something merely imposed on indigenous peoples from above.

Through meticulous archival research in the states of Oaxaca and Michoacán, Caplan traces and carefully explicates popular forms of liberalism. She argues that indigenous peoples did not usually question liberal changes, but sought to craft them in specific ways. Examples of this in Oaxaca are a reluctance to be taxed, not on the basis of its illegitimacy but on poverty and hence inability to pay; or an evasion of the draft that did not challenge it but emphasized other contributions offered in its stead. Similarly, rural citizens in Yucatán negotiated liberal reforms by establishing a direct relationship with state government that allowed them to circumvent non-indigenous leadership. Rural communities also used different strategies to gain the titles to *baldía* or "unoccupied" lands that they had used before land titles became mandatory. Throughout national administrative fluctuations, in both centralized and federal systems, indigenous peoples in both states adopted many of these new institutional reforms and publicly supported them, while simultaneously attempting to maintain certain levels of autonomy.

With *Indigenous Citizens*, Caplan joins a growing and important wave of scholarship that explores indigenous agency in the formation and negotiation of liberalism in Latin America (Brooke Larson, *Trials of Nation: Liberalism, Race and Ethnicity in the Andes*, 2004; Francie Chassen-Lopez, *From Liberal to Revolutionary Oaxaca: The View from the South, Mexico 1867–1911*, 2004; Kim Clark and Marc Becker, *Highland Indians and the State in Modern Ecuador*, 2007). Although both Larson and Chassen-Lopez argue that indigenous peoples helped shape republicanism and liberalism in the region, the former compares several countries while the latter focuses on Oaxaca.

By comparing two states in one country, and thus a shared macro political framework, Caplan allows us to understand how local liberalisms could lead to very different outcomes. In Oaxaca, indigenous and nonindigenous citizens as well as public officials had powerful economic reasons to maintain this hybrid autonomy. In