

depend entirely on the quality of the evidence, which is usually produced and interpreted by experts. Once we realize this, it makes sense to think that the kind of competence most valuable for voters would be a meta-competence in assessing the quality of the decision situation and determining what to do in response to the limitations of expertise and the risks of error. But that moves us beyond the framework of the CJT.

It is further testament to the book's success that it opens up many interesting questions that go beyond its own framework. This book is a valuable contribution to democratic theory and will be a touchstone for the rapidly expanding literature examining the relationship between democracy and truth. The authors not only succeed in establishing the reach and limits of the CJT, but also demonstrate how modeling tools can be used to clarify and illuminate real political questions without sacrificing either rigor or relevance.

Creating a Constitution: Law, Democracy, and Growth in Ancient Athens. By Federica Carugati. Princeton, NJ: Princeton University Press, 2019. 248p. \$39.95 cloth.
doi:10.1017/S1537592720000304

— Mark Fisher , Georgetown University
mf1211@georgetown.edu

In *Creating a Constitution: Law, Democracy, and Growth in Ancient Athens*, Federica Carugati invites us to consider what classical Athenian democracy might teach us about the enduring conditions of successful constitution-making. Although Carugati's guiding question is by no means a new one, her answer is novel and worthy of serious consideration by social scientists and citizens alike. Working between political science, political economy, and ancient history, Carugati argues for a reinforcing dynamic among legal institutions, political stability, and economic prosperity. Although primarily aimed at an academic audience, her book also speaks more broadly to those attempting to understand what is at stake in protecting constitutional norms in the face of partisan pressures, offering a theoretically grounded argument that we allow such norms to be eroded at our peril.

To tell us something important about constitution-making today, Carugati chooses to return to ancient Athens, despite its vast social, political, economic, and technological differences from our contemporary world. One might reasonably wonder why. In Carugati's telling, however, many of these differences contribute to ancient Athens being "a remarkable laboratory to study the determinants of successful constitution-building" (p. 9). The relative simplicity of the Athenian legal code offers a "cleaner" case for studying the necessary conditions of constitutional success, she argues, and the direct

participation of the wider population in the production of the consensus allows us to escape the biases that inform an elite-driven bargaining situation. These virtues, when combined with the notable ability of the Athenian constitution to produce stability in the wake of civil war and prosperity after losing an empire, suggest to Carugati that Athens is the ideal place to look for the minimal conditions of successful democratic constitution-making.

Over the course of the tumultuous final decade of the fifth century BCE, Carugati argues, the Athenian population forged a connection between institutional legitimacy, the concept of "legality," and the idea of an "ancestral constitution" (*patrios politeia*) attributed to Solon. Taken together, this connection produced a sense among the Athenians that, whatever regime form they should adopt, they must govern themselves according to a set of coherent, publicly known set of laws. Ultimately, the regime that the Athenians adopted was a democracy, but Carugati argues that this was not a matter of path dependency. Rather, she suggests that the creation of a more restrained democracy in the wake of the Thirty Tyrants solved the underlying problem of credible commitment that had destabilized the more radical democracy of the fifth century. Key to this solution, Carugati argues, was the introduction of effective limitations on the people's ability to make law haphazardly and to appropriate the property of the elites arbitrarily. The result was, according to Carugati, an equilibrium in which both populace and elites were incentivized to uphold the new constitution, rather than to engage in further civil war.

Although this equilibrium was crucial for Athenian stability, Carugati argues, economic prosperity required that the Athenians continued to innovate. To demonstrate how Athens successfully balanced growth-inducing change with enduring political stability, Carugati relies on a revised version of the Downsian median voter theorem to build a model for understanding the process of judicial review built into the new, seven-step Athenian legislative procedure. According to this model, jurors with single-peaked policy preferences are tasked with reviewing new, potentially unconstitutional legislation, while litigants motivated by policy preferences and, if elite, "honor" (operationalized as a concern for victory) argue for and against the new policy. From this model, Carugati derives two conclusions. First, innovation was more likely to come from sub-elite actors who cared more about achieving particular policy outcomes than attaching another victory to their names. Second, the procedure of legal review ensured a degree of predictability and stability in the process of policy innovation, at least so long as the median juror embodied a stable ordering of preferences over time. Carugati builds on these insights to suggest that the varied fiscal innovations of the fourth century—especially those that pertained to the Laurion silver mines and Piraeus harbor—were responsible, at least in part, for the ability of

the Athenian polity to achieve high levels of economic growth without returning to civil war.

For all of the impressive historical research and theoretical work that informs Carugati's study, the reader is left with a number of questions concerning the concrete lessons to be learned about constitution-making in and outside ancient Athens. For instance, the most intriguing suggestion of the book, at least in my opinion, is that successful constitution-making in Athens was conditioned by its citizens' commitment to "legality," because this commitment placed ideological checks on the pursuit of partisan interest by any particular group. Such an argument suggests that both structural and symbolic factors need to be considered in analyzing why a particular constitution may or may not succeed. This is a promising development in a field of study that can often be myopically reductive. Yet, rather than exploring the depths and potential complications raised by the symbolic dimension, Carugati quickly moves on to build a model of constitutional innovation. In doing so, Carugati reduces legal change to a negotiation between the interests of the median Athenian juror, the policy preferences of the proposer, and the proposer's willingness to risk defeat to more closely approach this policy preference. The model would therefore seem to suggest that Athenians were willing to introduce new laws and statutes when it was opportune for them to do so and that Athens owed its stability in the fourth century to the stipulated stability of the median voter's preferences. What exactly the relationship is between "legality" and the stability of Athenian preferences, however, could be developed at much greater length. Relatedly, Carugati might clarify how exactly the commitment to an inherently ambiguous abstraction—a commitment that was compatible with both radical democratic and oligarchic regimes—would be sufficient to stabilize preferences over the course of a tumultuous century of rising and falling fortunes.

Carugati's turn to her model is motivated by the scarcity of fourth-century evidence for Athenian policy making: dismally few actual cases remain for us to investigate, and many institutional procedures are all but opaque. Carugati is frank about this lack of evidence at almost every step of her argument, but its overall implications for the success of her project are not squarely assessed. All too often Carugati is left to speculate on how Athenian constitution-making might have occurred, using modern theory to make up for evidentiary gaps. And even though her speculations are consistently interesting and often plausible, they are driven by a theory and model that can neither be confirmed nor denied by the Athenian example. We are thus left asking again, Why Athens?

Is Athens in fact necessary to derive the theory behind Carugati's study? If not, what exactly is the value of turning to Athens given the precarious nature of the evidence? One way to approach these questions would

be to ask what we can actually learn about Athenian democracy over the course of Carugati's book. To be sure, the theoretical lens used by Carugati appears wholly foreign to the way in which classical Athenians actually thought about the practices in which they were engaged. Litigants did not understand juries to be aggregate groups with single-peaked preferences, for instance, but as a body of listeners whose ideas could be shaped and emotions activated through various rhetorical appeals. Likewise, a litigant's concern for honor was not merely a concern for victory but also a need to uphold certain standards of demeanor, diction, and argumentation: dishonorable victory was indeed a thing. None of this is to deny that Carugati's model contains significant heuristic value for us when thinking about Athenian institutional practices, but it does suggest caution in accepting its value as history. To the extent that her model tells us something about Athens, it does so at a register of analysis beyond the lived experience of those who actively participated in Athenian constitution-making. For many, such a register may yet shed light on important historical truths. The status of such "truths" will surely be contested, however, by those adhering to a more interpretivist understanding of the historical enterprise. If Carugati's Athens thus succeeds in helping us understand ourselves, this is a significant achievement. But for many readers it may appear to come at the cost of better understanding Athens.

Feeling Like a State: Desire, Denial, and the Recasting of Authority. By Davina Cooper. Durham: Duke University Press, 2019.

272p. \$99.95 cloth, \$26.95 paper.

doi:10.1017/S1537592720000936

— Elena Gambino , Bates College
egambino@bates.edu

Davina Cooper's *Feeling Like a State* sets out to do nothing short of "conceptually reimagining what it means to be a state" (p. 2). Set against projects that conceptualize the state as *essentially* disciplinary, coercive, and hierarchical, on the one hand, and those that pursue new institutional designs premised on normative principles, on the other, Cooper's aspirations are at once more radical and more provisional. At its most basic, the book suggests that theorists seeking a progressive politics cannot afford to ignore what she calls "postnormative" events, such as the "legal drama" surrounding conservative Christian refusals to participate in LGBT equality projects. But these events are more than flies in the ointment. In fact, they are the ground on which Cooper stakes her entire theoretical gamble: considering these episodes of conservative Christian refusal, for Cooper, requires that theorists think through the provisional, contentious, and "sticky" practices of politics—especially in relation to claims that seem