

politicization when, as many will probably admit, conventional wisdom is largely driven by administration-specific concerns.

The fourth and fifth chapters are the real core of the book because they describe the changing patterns of politicization across time, type of agency, and type of appointment, as well as between eras. This is a massive data exercise and proves revelatory about what exactly has been happening for the last 50 years in terms of increasing politicization. We now know that politicization increased over time, but that the recent era has been more “ebb and flow.” The real changes have been at the agency level—not across the entire federal government—and it is this discovery that justifies the statistical models that follow.

The first set of statistical models show fairly strong evidence for the propositions that Lewis derives. The second set show that there is a performance loss to politicization. The evidence is assembled with great care and helps complete the connection between theory and models called for in the EITM movement (but often lacking in the study of the presidency and bureaucracies). The evidence is compelling, though, partly due to the presence of the FEMA case study. This case offers insights into when and where politicization can improve performance, how design affects politicization, and the degree to which agencies attract low-quality appointees. Lewis recounts the changing fortunes of the agency, with increasing numbers of appointees in the George H. W. Bush administration, James Lee Witt’s professionalization revolution during the Clinton administration, and the “true politicization” of FEMA after its absorption into the Department of Homeland Security. The impacts are seen most clearly in the events associated with Hurricane Katrina. The end result is that the positive impact of political leadership during the Clinton administration was damaged with politicization during the recent Bush administration.

In the end, presidents use appointments for both managerial and political purposes, and the book provides a measure of evidence for those motivations and their consequences for bureaucratic performance. In his conclusion, Lewis offers concrete and important lessons for understanding the president and his or her power of appointment in the broader context of American democratization. There are certainly policy implications here, ranging from limits on the number of appointees to externally enforced restrictions on appointees’ qualifications, but those are fairly minor in comparison to the bigger picture of uncovering and documenting the mechanisms of governance that define the president’s role in America.

This is certainly the best book on appointments so far, and one that will come to define how we write books on the presidency that attempt to meld theory and evidence. Readers may have concerns about the modeling, the measure of performance, or the gradually changing meaning of “professional” (as opposed to “political”), and these con-

cerns will drive the next generation of research on presidents, appointees, and the bureaucracies they attempt to control. But *The Politics of Presidential Appointments* will provide the starting point, and rightfully so.

**Presidential Constitutionalism in Perilous Times.**

By Scott M. Matheson, Jr. Cambridge, MA: Harvard University Press, 2009. 248p. \$45.00.

**Bad for Democracy: How the Presidency Undermines the Power of the People.** By Dana D. Nelson.

Minneapolis, MN: University of Minnesota Press, 2008. 256p. \$24.95. doi:10.1017/S1537592709991289

— Nancy Kassop, *SUNY New Paltz*

Respect for constitutionalism is back. If political scientists and other social science scholars have anything for which to thank the George W. Bush administration, it is for redirecting the public’s attention back to the purposes that fundamental governing principles serve and to the reasons why our system’s founders expected adherence to those rules. For the last eight years, the academy has been in the forefront of vigorous, visible, and intense criticism against that administration and its philosophy and practice of executive power. The Bush presidency was derided by many as misguided, at the very least, and, most likely, as straying beyond the bounds of law. Presidency scholars such as James Pfiffner, Louis Fisher, Dick Pious, and David Gray Adler—along with law professors David Cole, Neal Katyal, Jack Goldsmith, and Jeffrey Rosen; and journalists Charlie Savage, Jane Mayer, Eric Lichtblau, and Barton Gellman and Jo Becker—are only a few of the many who have written extensively on the Bush transgressions. There is no lack of scholarship on this issue, and it is a safe bet that there is still much more to come.

Two new entries into this genre come not from presidency scholars but from Scott Matheson, Jr., professor of law at the University of Utah, and Dana Nelson, professor of English and American Studies at Vanderbilt University. These two authors share a hearty disapproval and deep skepticism for the way presidents have governed during wartime, but they approach their common subject from vastly different disciplines and points of departure, and their prescriptions for the future are equally divergent.

Matheson’s treatment is the more conventional of the two. His argument is that, throughout history, many presidents have employed their emergency wartime powers in ways that have produced conflicts with both civil liberties and the separation of powers. He is on a quest to find that magic formula that will lead presidents to “address danger and respect individual liberty during war” (p. 2). He is not alone in this search, and, in a way, that is both the strength and the weakness of this book. There is territory here that is well trodden and familiar to informed readers with a basic knowledge of history and constitutional law. The research is generally careful and solid, drawn mostly

from appropriate sources (occasionally, secondary sources are cited, rather than primary ones, as on p. 87, where, in discussing military commissions, he cites Louis Fisher's *Military Tribunals and Presidential Power* [2005] and Barton Gellman and Jo Becker's *Washington Post* series on Cheney [June 24, 2007] instead of a direct reference to the president's military order, and on p. 97, where, when noting Attorney General Mukasey's disavowal of the August 2002 OLC "torture memo," he cites news articles about the hearings, rather than referencing the Senate confirmation hearings directly), but there is not enough here that is new or refreshing. He pays homage to all the standard aspirations: striving for responsible and accountable government, ensuring effective checks and balances, finding the right balance between liberty and security—all admirable and predictable objectives with which there can be no disagreement.

The distinctive contribution Matheson brings to the topic is his classification of six models or perspectives of presidential emergency power. He selects five presidents who employed constitutionally questionable authority during wartime—Lincoln, Wilson, FDR, Truman, and George W. Bush—and he analyzes examples of constitutional decision making from each one to determine the extent to which these presidents included elements of his six models: (1) executive supremacy, (2) political branch partnership, (3) judicial review, (4) retroactive legislative judgment, (5) extraconstitutionalism, and (6) executive constitutionalism—this final one being the ideal that he proposes all presidents should try to follow. The illustrations he chooses for these presidents are the predictable ones: Lincoln's suspension of the writ of habeas corpus, imposition of martial law, and use of military commissions; Wilson's support for the Espionage Acts of 1917 and 1918 and prosecution of domestic dissidents; FDR's executive orders implementing curfew and relocation of Japanese Americans; Truman's domestic seizure of the steel mills during the Korean War; and Bush's antiterrorism policies of torture, surveillance, and indefinite detention and trial of enemy combatants. His conclusions are unsurprising, and his analysis of historical examples from Lincoln to Truman sets the stage, inevitably, for his fuller treatment of Bush. A thread that runs throughout much of Matheson's analysis is the measurement of each president's specific action against the tripartite executive-legislative power framework of Justice Jackson's *Youngstown* concurring opinion. As could be expected, he finds that Bush pushed the executive power envelope farther (and with greater frequency) than most of his predecessors by acting contrary to law (Jackson's third "lowest ebb" category) rather than in the more typical "twilight zone" (Jackson's second category), as well as by relying on unilateral power through resort to the highly controversial "unitary executive theory" of presidential power that, among other tenets, admits of no legislative or judi-

cial checks. Perhaps Matheson's most useful insights arise in explaining why Bush surpasses Lincoln when it comes to extraconstitutional use of wartime powers, citing the following reasons: (1) Lincoln faced an unprecedented domestic rebellion; (2) public understanding of and judicial protection for civil liberties were far less developed during the Civil War than post-2001; (3) Lincoln publicly acknowledged that he was using powers that belonged to the president and Congress; (4) Lincoln sought retroactive legislative authorization for his actions without, as in Bush's case, being pressured by the courts to do so; and (5) Lincoln demonstrated electoral accountability at a politically vulnerable time by proceeding with the 1864 wartime election.

Matheson concludes that, since the courts usually enter these controversies late in the day (often after the emergency has passed), and since Congress operates under political constraints that make effective legislative action difficult to achieve, it is up to the executive to monitor his actions with a "constitutional conscientiousness" that faithfully respects the limits of the office's powers and the roles of the coordinate branches (p. 5). This is the basis of his call for "executive constitutionalism," the notion that a president should recognize and adhere to constitutional principles even in the face of the gravest national security challenges. There is nothing remarkable or unique here, and nothing with which to disagree.

Nelson's work moves many of these same criticisms in a far different direction, urging a veritable citizen call to arms. She is equally distressed at the unlimited use of power by presidents—*all* presidents, not only wartime ones (although George W. Bush holds a special place of opprobrium in her pantheon of chief executives)—and argues that Americans have permitted democracy and self-government to atrophy through unwarranted hero worship of the presidency, and that we have been lulled into political complacency and inaction. She asserts that we have reduced our political responsibility to the single act of voting every four years, rather than maintaining a watchful eye over government and urging community activism when policies and presidents serve selfish ends. Similar to Matheson, but with greater intensity, she heaps scorn on "the unitary executive theory" as one source of power that is especially alarming, tracing its modern-day roots to the Reagan presidency, and noting that all presidents since Reagan have routinely exercised certain aspects of it, such as signing statements. To her credit, she explains the unitary executive theory accurately as the belief that "the president should control *all* administrative power, with an unchecked right to determine how laws are implemented" (p. 3–4, italics in original). All too often, this concept is defined inaccurately or incompletely. But her wrath is directed even more at the public than at presidents, since she has long ago given up on our leaders to restore any sense of balance to the system. She claims that the public

responds to the presidency unconsciously and emotionally, through what she terms “the logic of presidentialism” (p. 5), elevating the office to an undeserved status, and that this construct prevents individuals from recognizing the potential power of their own actions.

This book is strident and rhetorical in its tone. It proceeds from an overtly and unabashedly communitarian philosophy, holding that people should take responsibility for government decisions, especially in a system that professes to be “*by* the people and *for* the people” (p. 222, italics in original); that we have fallen far from that mark; and that we hold the possibility of reform in our own hands, if only we can recognize and mobilize the will to pursue it.

Nelson builds her argument by discussing in separate chapters (1) how we have mythologized presidents into superheroes, (2) how we have “shrunk” citizenship solely to the quadrennial act of voting, (3) how presidents have used wartime as the excuse to increase their powers well beyond what the Framers intended, (4) how the unitary executive and its use of unilateral “power tools” originated in a corporate model (p. 145), i.e., president as CEO, and (5) how the remedy for an overly powerful presidency must come from the people through “reimagining democracy as an open system” (p. 183), using the organizing and networking potential of technology and new forms of political empowerment.

Although Nelson makes reference to notable political science research, such as the work of Cronin, Genovese, Barber, Mayer, Kelley, Miroff, Neustadt, and Pious, there is other relevant scholarship that is overlooked, such as Greenstein, Rudalevige, Healy, and Savage. More significantly, however, there are no citations in a work that quotes extensively and that builds its argument from history and politics. It makes for unsatisfying reading, at least, to a political scientist, who has the reasonable expectation of appropriate citations. But that may be a consequence, perhaps, of approaching political arguments from a different discipline, that of American studies (still, it leaves one a bit suspicious when the author acknowledges that the book is dedicated to her mentor “who talked me out of a political science major” [p. 225]).

Both books, then, are critical of the current presidency, and both authors yearn for a return to an office whose occupant understands that it is only one part of a larger, more complex governmental system that expects compliance with constitutional principles. Matheson offers a more conventional route, suggesting simply that a president act with a respect for constitutionalism and for the principles of separation of powers and checks and balances, while Nelson promotes a more aggressive approach, arousing a civic engagement to employ activist tactics to advocate for a more direct form of self-government. The first strategy seems overly tame and insufficiently imaginative, and the second seems unduly idealistic. Both books appear to have

been completed just prior to the beginning of the Obama presidency. Neither author is likely to be satisfied completely with the changes that have come with this new administration, but one wonders if each might see some sliver of movement closer to each one’s vision.

**Native Vote: American Indians, the Voting Rights Act, and the Right to Vote.** By Daniel McCool, Susan M. Olson, and Jennifer L. Robinson. New York: Cambridge University Press, 2007. 246p. \$84.00 cloth, \$25.99 paper.  
doi:10.1017/S1537592709990788

— Kevin Bruyneel, *Babson College*

Most scholarship on American Indian politics focuses on tribal sovereignty and its relationship to U.S. Indian policy. As a consequence, there are few studies that examine the direct participation of American Indians in U.S. electoral politics. In their book, Daniel McCool, Susan Olson, and Jennifer Robinson take on this task by analyzing the effort to secure American Indian voting rights, especially following the passage of the 1965 Voting Rights Act (VRA). In so doing, the authors make a vital contribution to the emerging political science scholarship on modern American Indian politics. Those who work in the fields of U.S. race and ethnicity politics and U.S. public law will also find *Native Vote* an important addition to their reading lists.

The book focuses more on the abridgment than the denial of the right to vote, but the authors do address the latter in Chapter 1. The 1924 Indian Citizenship Act made U.S. citizens of all Indians in the country, although by that time almost two-thirds had already become citizens. Leading up to 1924, however, the effort to gain citizenship and suffrage was not aided by calling upon the Constitutional guarantees of the Fourteenth and Fifteenth Amendments. In *Elk v. Wilkins* (1884), the Supreme Court declared that the Fourteenth Amendment did not apply to Indians. And the authors note that the Fifteenth Amendment “had virtually no impact on the right of Indians to vote” (p. 5). We see here a theme that persists throughout the book: the complexity of U.S. race and ethnicity politics, in which American Indian and African American political struggles are both distinct and deeply intertwined. For example, as with African Americans, it was at the state level that American Indians felt the direct brunt of the effort to deny them the right to vote. Also, measures first created to address African American political inequality and disenfranchisement, such as the post-Civil War constitutional amendments and the VRA, have been utilized by American Indians, to mixed but improved results over time. In this way, the authors show the value of placing American Indian politics into the wider context and history of race and ethnicity politics in the United States.

Chapters 2 and 3 trace the development of the VRA and the range of Indian voting rights cases brought forth