

BOOK REVIEWS

A Machine that Would Go of Itself: The Constitution in American Culture. By MICHAEL KAMMEN. (New York: Alfred A. Knopf, 1986. xxii, 532p. Illustrations, appendixes, index. \$29.95.)

The bicentennial of the framing of the Constitution of the United States has brought forth a spate of scholarship. Among the more important books is Michael Kammen's *A Machine that Would Go of Itself*. The Cornell University historian has written a remarkable intellectual history about the place of the Constitution in the popular consciousness: what Americans have felt about the Constitution, what they have known about it, and the consequences of what they have felt and known. Kammen has drawn upon an extraordinary range of sources including children's textbooks, paintings, and the Citizenship Education Program files of the Immigration and Naturalization Service. He has looked at the papers of the Centennial and Sesquicentennial anniversary commissions and even refers to a *Star Trek* episode in which the *Enterprise* lands on a planet upon which the inhabitants revere a sacred document known as the "Prime Directive." While his focus is not always quite as clear as it should be, Kammen has produced a book which will be drawn upon by scholars of American constitutionalism for generations.

Kammen's themes are not remarkable; what is remarkable is the manner in which they are illustrated. According to him, running through the history of American constitutionalism has been the discrepancy between reverence for the Constitution and ignorance of it. A principal cause of that ignorance has been the inadequacy of elementary education. Furthermore, Americans have tended to conflate the Supreme Court and the Constitution. But the Court has taken refuge in its own mystique and failed as a constitutional educator. Within a broad consensus of acceptance of the Constitution, there have been throughout American history, constant, consequential conflicts over how to interpret it—conflicts which have done more to educate the American people than anniversary commemorations.

In a "nutshell," these are, according to Kammen, the principal chronological developments in the relationship between Americans and their Constitution: The cult of the Constitution did not rise as early, nor as pervasively, as scholars have believed, but emerged haltingly and incompletely. It was not until 1850 that the Constitution was finally becoming a symbol which the society regarded as culturally determinative. American politics continued to operate within a constitutional framework during the Civil War and Reconstruction. From 1885 to 1935 Americans became more

self-conscious about the special virtues of having a written constitution while simultaneously emphasizing its historical evolution, making it appear more British than we would later believe. By 1915 the constitutional "fetish" was on its way, manifested by Constitution Day, Constitution Bees, and oratorical contests. The great court-packing crisis of 1937 probably rescued the sesquicentennial from the doldrums, while causing many Americans for the first time to draw a clear distinction between Constitution and Court. Then the Bill of Rights was "discovered" in 1939-41, though it needed to be "re-discovered" in 1955-56. In the 1980s the Constitution continues to be politicized, due in large measure to the politicization of the Supreme Court as a governmental institution and of judicial review as a policy-making process.

All readers will learn both amusing facts and important revelations from Kammen's book. I was, for example, intrigued to follow the odyssey of the document itself. During of the War of 1812 the Constitution was for a time stored inside a coarse linen sack in an unoccupied grist mill. Later, it was kept for many years in a closet in the Department of State, folded in a little tin box. But I was also intrigued by the discussion of the implications of the half-century's delay in publication of Madison's *Notes*, which, Kammen suggests, contributed to the distortion of American constitutional history, especially regarding slavery, as the American people were denied the best evidence of Framers' intent. Appearance of the *Notes* in 1840 contributed to prolonged vacillation over slavery cases in the courts, undermined sectional compromises, and caused permanent fragmentation among the abolitionists.

Professor Kammen has not, however, written a fully satisfying book. About a quarter of the way through, he loses focus and the reader is left amidst interesting byways. Often it is not clear why he is telling us what he is telling us. One example must suffice: the digression to consider the admiration of the architect of the Supreme Court building for Mussolini. It may have been true that Cass Gilbert was naive about international politics, but Kammen makes no connection between the architect's views and those of the justices; nor does Gilbert's Greek temple (although it would have been at home in Rome) resemble Mussolini's proto-fascist architecture. The point of these pages is not clear.

The last section of Kammen's book, treating developments since 1939, is particularly disappointing. Since he strongly disputes conflation of Court with Constitution, his enormous emphasis in the last fifth of the book upon the Court is somewhat puzzling. Nor is it clear why he presents at such length the results of polls about the Supreme Court, or the great detail about the Court's press coverage. There is much one would have preferred in its place and which would seem more appropriate to the book's overall

themes: for example, a discussion of the impact of Watergate upon Americans' views of their Constitution and *vice versa*, or the implications of super-power status. Certainly the rich literature which exists dealing with political culture and political socialization might have proven an excellent launching pad for a more profound discussion of the underlying reasons for the continuing consensus regarding the Constitution than Kammen anywhere offers.

Nevertheless, Kammen has written a book rich in detail about an important and neglected subject. It undoubtedly will be mined unmercifully by those teaching constitutional law and history in the years ahead.

University of Pennsylvania

JEFFREY B. MORRIS

Constitutional History of the American Revolution: The Authority of Rights. By JOHN PHILLIP REID. (Madison: University of Wisconsin Press, 1986. ix, 374p. Index. \$25.00.)

No book likely to appear during the bicentennial of the Constitution will so precisely and carefully explain the origins of early constitutional rights as this one. In our libertarian age, few choose to recall the key concept explaining both what rights are and how they were derived: "rights in the eighteenth century were thought of as restraining arbitrary government rather than as liberating the individual" (p. 73). Moreover, as Reid shrewdly reminds the reader, the rights Americans fought for in the Revolution included the right of petition, the right to a jury trial, the right to be free of general search warrants, and the right for legislators to be free to speak in debate without fear. Such was the success of the constitutional revolution the patriots brought off that we shrug off such issues today as mere historical curiosities. What Reid ably demonstrates, however, is that all discussions of rights and the limitations placed upon sovereignty sprang from a specific authority grounded in ownership or purchase.

After explaining in the first eight chapters the general nature of English rights, and their connectedness to security in one's property (a term also carefully explicated by Reid), the author examines the nature of constitutional authority in the eighteenth-century British context. Far from encapsulating a notion of "fundamental" or "unalterable" English rights, Reid argues, the British constitution had already by 1716 evolved into a system of arbitrary power. Reid then traces colonial arguments over rights in the context of migration and contractual thinking. He concludes his study with a ringing reaffirmation of many constitutional historians' argument: the

Revolution was inevitable because the colonials "were asking for constitutional guarantees that were constitutionally unobtainable" (p. 227).

In coupling the centrality of constitutional issues to the more prevalent historiography of the Revolution that has for twenty years concentrated on ideology and social change, Reid has rescued constitutional history from unwarranted neglect. At times, however, one wonders if he is not having a bit of sport with his readers, testing them on their knowledge and vocabulary. Even a reasonably well-educated student may not nod in immediate recognition at a chapter entitled "The Right of Isonomy." Moreover, the central distinction between what was "legal" as opposed to "constitutional" that Reid rightly urges his readers to bear in mind as applying with peculiar force to British constitutional thought could have used even more elaboration.

Since this is only the first of a three-volume work, a final assessment must await the appearance of the companion volumes. Even so, it is clear that Reid is producing a work of exceptional clarity and importance. No one interested in the later development of constitutional thought can afford to miss engaging this provocative and carefully argued book.

University of Illinois at Chicago

A. G. ROEBER

Magna Carta for America: James Abercromby's "An Examination of the Acts of Parliament Relative to the Trade and the Government of our American Colonies" (1752) and "De Jure et Gubernatione Coloniarum, or An Inquiry into the Nature, and the Rights of Colonies, Ancient, and Modern" (1774). Edited by JACK P. GREENE, CHARLES F. MULLETT, and EDWARD C. PAPENFUSE, JR. (Philadelphia: American Philosophical Society, 1986. xii, 346p. Appendixes, index. \$35.00.)

Contrary to much general opinion, a substantial body of writing on the need for reform of the British Empire survives from the pre-Revolutionary period, particularly for the years between 1730 and 1760. Some of the reform proposals were published as separate books or pamphlets, others were incorporated in works on the larger subject of Britain's American colonies, and many remained in manuscript, at least theoretically perused by the "Great Men" in England to whom they were sent, usually as part of an effort to gain official preferment for the author. Almost without exception, the authors of such efforts had substantial American experience, frequently as minor officeholders, and again almost without exception, the authors were individuals—often Scots—without a firm base in either Britain or America. What these "transatlantic" observers had to say about the empire

and its necessary reformation makes fascinating reading, not least because there was so much overall agreement amongst them. They shared a number of ideas, headed by a concern that the American colonies were moving or would move in a separatist direction from their mother country. American "independence" (or practical autonomy) was undesirable, because colonies had been created to be dependent upon the metropolis, and "independence" needed to be arrested by a firm imposition of British authority, which none of these reformers doubted to be either theoretically or pragmatically possible.

Among these imperial reformers, probably none was more knowledgeable than James Abercromby, a lawyer by training who spent many years as an official of the South Carolina vice-admiralty court and subsequently served as colonial agent for North Carolina and Virginia. Unlike most of his colleagues who produced tracts of imperial politics in the eighteenth century, Abercromby served a stint in the South Carolina Assembly and a term in Parliament. He produced two major works, one in 1752 detailing a series of necessary changes to imperial government, and one in 1774 defending British supremacy over the colonies on the eve of rupture. Abercromby had an extremely able legal mind, a good deal of practical experience, and a wide acquaintance with both parliamentary legislation on the colonies and the theoretical writings on empires, both ancient and modern. His writings were quite different from those of his fellow imperialists, and could well be described as the beginnings of the development of an imperial legal framework of case law that ultimately might have produced an imperial equivalent of Blackstone had the Americans not short-circuited the process. Especially in his later work, one could well see Abercromby arguing Britain's case before a world court, and probably holding his own against the colonial position.

As the editors point out in their useful introduction, what was important about James Abercromby and his fellow reformers was that they demonstrate the limited ways in which the British thought—and indeed could think—about their overseas colonies in America, thus providing an intellectual context for British political maneuvering. This edition annotates all the many obscure legal and literary references by Abercromby, as well as providing several interesting appendixes, including one of short Latin legal phrases with which the author—like many of his contemporaries—peppered his writing. Having Abercromby's works in print for the first time is important, for only through such writings can we hope to recover the climate of opinion lurking behind the American Revolution.

St. John's College
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J. M. BUMSTED

Peripheries and Center: Constitutional Development in the Extended Politics of the British Empire and the United States, 1607-1788. By JACK P. GREENE. (Athens: University of Georgia Press, 1986. xii, 274p. Index. \$30.00.)

The Bicentennial of the U.S. Constitution has redirected attention to political and constitutional history, which has been overshadowed in recent years by historiographical emphasis on "new" social, economic, political, demographic, and psychological history. The shift could hardly be avoided, since the creation of the American Constitution in 1787 was preeminently a political and constitutional act, whatever social, economic, or intellectual presuppositions undergirded the efforts of the Framers. What they faced during that long hot summer was the resolution of two basic problems: reconciling the need for enlarged governmental authority with the fear of arbitrary power, and strengthening the recently formed nation without unduly undermining the newly independent states. In tackling the task, the Framers were reminded by John Dickinson to rely more on experience than on theory, and it is the nature and history of this experience that constitutes the central theme of Jack Greene's latest book.

Greene's conclusion is apparent from the outset: Americans during the Revolution and the immediate postwar period confronted an issue that had arisen almost from the establishment of the first English colony in the New World, balancing power and liberty, and permitting the mother country to extend its rule outward without disturbing the local autonomy gradually being exercised by the overseas provinces. The problem engaged the Crown as it devised charters for the American settlements; it was exacerbated as the colonies grew to maturity and participated with the mother country in its wars against France; it reached a crisis in 1776 as Americans challenged both Crown and Parliament in their attempts to exercise dominion over the entire empire; and it confronted the new United States as it experimented with a Confederation government. The ingenious solution of 1787 was a federal system and a division of sovereignty heretofore considered indivisible, justified by the new theory that sovereignty could be divided in a republic because ultimately it resided with the people.

The thesis is, of course, scarcely original, but Greene develops it comprehensively and lucidly from 1607 to 1788, with a wealth of documentation and a somewhat new angle of vision. Utilizing a concept employed by Bernard Bailyn and John Clive in 1957 in describing the cultural relationships between Great Britain and the American and Scottish "provinces"—center and peripheries—Greene views the constitutional development of the Anglo-American empire in similar terms (although he acknowledges his own debt to Edward Shils for the terminology). Greene demonstrates that

while Crown and Parliament persisted in asserting a centralist theory of empire for a century and a half, in practice it permitted an informal federal system to develop. The American colonists accepted and expounded this commonwealth theory of empire, although it was hazy and ambiguous after they declared independence. Thus, it remained unclear whether sovereignty had moved from Parliament to the new nation as a whole or to the states severally. In practice, during the years from 1776 to 1787, power shifted from the peripheries to the center during the war and back again after the peace. The "genius" of the Framers was their own novel federal solution, but Greene concedes that the distribution of power between center and peripheries remained an issue to be solved almost always by the exercise of force and sanctions from the center.

Greene's approach obviously ignores other elements in shaping the outlook of the Framers: their economic interests, their fear of social disorder in a government with a weak center, their concern for virtue as the basis of a republican society, and the long tradition of civic humanism that informed their view of politics. But in his preoccupation with the constitutional history of the nation before 1789, he has properly reminded us that what we celebrate in 1987 is, after all, two centuries of extraordinary constitutional development under a document that, whatever its imperfections, has provided those who live under it with more ordered liberty than any of its counterparts in modern history.

University of Tennessee, Knoxville

MILTON M. KLEIN

Are We To Be A Nation? The Making of the Constitution. By RICHARD B. BERNSTEIN with KYM S. RICE. (Cambridge, MA, and London: Harvard University Press, 1987. xii, 342p. Illustrations, chronology, index. Cloth, \$35.00; paper, \$14.95.)

Of all the productions inspired by or perpetrated upon the memory of the writing of the Constitution of the United States, none is harder for consumers to assess than a production of the mind. T-shirts, paper weights, and countless other objects may, after all, be seen by even an unwary and good-natured public for what they are: harmless, tawdry, overpriced. But a book, especially a large and glossy book, may as readily be a good buy as slick and insubstantial. The task (difficult at best) of discovering value in the growing heap of bicentennial dross is almost mind-numbing.

The present volume, a companion to an exhibit mounted by the New York Public Library, is a handsome example of a rarity. Addressing a literate general public, it tells a story and indicates how scholars have variously

interpreted that story. The analysis is detailed enough to show the complexities of the Americans' long search for union, but the narrative, for all its extended quotations, marches briskly along. Bernstein and Rice invite us to enlarge our usual field of vision and to see the making of the Constitution as part of an effort to pose and answer the question: Are we to be a nation?

The answer was not a foregone conclusion, and the institutional embodiment of that decision was a matter of intense debate. This account makes clear that the Constitution was the product of a people with a long history of experience: experiments and failures in "Revolutionary constitutionalism." Their repeatedly frustrated attempts at finding just the right degree of union, their diverse experiments in rendering inherited laws and forms fit for new republican conditions and aspirations, their troubled stance toward European thought and pretensions—all these form part of this book's tale. If this is not a tale newly told, it is a tale well told.

By building on the scholarship of others, however, the authors have to a certain extent adopted those scholars' categories of thought or preconceptions. The results are not uniformly happy. Thus, for example, the dubious opinion dominant today that John Adams really missed the boat of new departures in constitutional thinking is accepted uncritically without due regard for the complexity of his thought. Similarly, the current readiness to fault the Founders for not acting in conformity with the Civil Rights Act of 1964 leads to unsustainable or demonstrably false conclusions. No supporting evidence is cited for the assertion that those South Carolinians who defended slavery as an economic necessity went on to proclaim it "a positive good for the slaves themselves" (p. 6)—a dangerous and misleading conflation of the views of the men of the 1780s with those of their descendants in the 1830s. Even less justifiable is the charge that Jefferson believed that blacks "were not suited to freedom on any basis" (p. 128). This, of the author of a bill that would have emancipated Virginia's youthful slaves, trained them "according to their geniusses," and colonized them elsewhere under American protection while declaring them "a free and independent people" (*Notes on the State of Virginia*). Winthrop D. Jordan, no admirer of Jefferson's equivocations on matters of color, has put it correctly: "Jefferson never for a moment considered the possibility that [blacks] might rightfully be enslaved" (*White Over Black*, p. 432).

Finally, if most or all of the delegates at Philadelphia were indeed heedless of their proposed government's "potential effect on the rights of individual Americans" (p. 179), then it is hard to grasp why they were so concerned to make this a government of enumerated and limited powers.

Beyond Confederation: Origins of the Constitution and American National Identity. Edited by RICHARD BEEMAN, STEPHEN BOTEIN, and EDWARD C. CARTER, II. (Chapel Hill and London: Published for the Institute of Early American History and Culture by the University of North Carolina Press, 1987. x, 366p. Index. Cloth, \$25.00; paper, \$8.95.)

This collection of essays promises to be one of the most important volumes on the Constitution to appear during this bicentennial year. Indeed, historians will be debating *Beyond Confederation* long after the public celebration has ended.

Richard Beeman begins his introduction with the provocative statement that "the founding fathers appear *more removed* from the lives of most Americans [today] than ever before." He argues that the general public is only marginally interested in the Founders' concerns of restraining governmental power, maintaining public virtue, and promoting the selection of the most talented individuals to political leadership. The twelve essays that follow help us to understand the world of 1787 and therefore to assess the relationship between past and present.

The editors have grouped the essays into three parts. Stanley N. Katz, Gordon W. Wood, and Ralph Lerner offer distinct approaches to the problem of ideology in the Revolutionary era. Katz reminds us that English legal traditions were a major influence upon the American Constitution. The Founders attempted to attain a balance between two principles in English constitutionalism that can be traced back to the medieval era: *jurisdictio* (fundamental law) and *gubernaculum* (the power to govern). The Constitution offered a revolutionary solution to this problem by vesting the people with sovereign authority over both these areas. While Katz is concerned with the historical antecedents of the Constitution, Gordon Wood suggests the links between the past and present. He views the Antifederalists, not the Federalists, as the harbingers of contemporary interest-group politics and economic individualism. This provocative thesis is most useful in understanding middle-class Antifederalists such as William Findley of Pennsylvania. Wood's analysis, however, slights the states' rights, libertarian impulse that was vital to Antifederalism. Ralph Lerner dissents entirely from the use of ideology as an analytical concept in recent historiography. His essay will intrigue many readers, but will puzzle others. Can Bernard Bailyn and Jesse Lemisch be accused of the same blunders?

Essays by Richard D. Brown, Janet A. Riesman, Lance Banning, Paul Finkelman, and Drew R. McCoy examine specific political, economic, and social issues related to the Constitution. Brown proves that Shays's Rebellion strengthened the nationalist cause throughout the country, but that it almost led to the Federalists' defeat in the Massachusetts ratifying convention in

1788. Riesman's essay traces the relationship between the financial problems of the Revolution and the evolving economic theories of the 1780s. Lance Banning breaks new ground by analyzing the evolution of James Madison's thought during 1787. His most controversial point is that the Virginian's *Federalist* essays express concern with the undemocratic and consolidationist tendencies present at the Constitutional Convention. As Banning admits, however, he has no explicit proof of this contention. Paul Finkelman reveals how the Constitution recognized, protected, and even strengthened the institution of slavery. Drew McCoy reminds us that sectional tensions transcended the issue of slavery in the 1780s. Many southern Federalists welcomed the idea of a more powerful central government because they believed that their region would attain political dominance by population growth in the southern and southwestern states. History was, of course, to prove them wrong (at least in the nineteenth century).

The essays by Jack N. Rakove, Richard E. Ellis, and Stephen Botein underscore the consequences of the Constitution for the development of either politics or religion during the early national period. Rakove argues that a major gap loomed between Madison's vision of a stable national leadership and the reality of congressional politics. Ellis shows that Anti-federalist concerns continued to influence politics long after the Constitution was ratified. His assessment of the Antifederalists as "anticommercial and precapitalist" in outlook is at odds with Wood's interpretation. Can these historians be discussing the same group? Stephen Botein discusses the irony of a secular Constitution serving the needs of a fundamentally Protestant people.

John Murrin's conclusion terms the establishment of the Constitution as "a roof without walls." He argues that the United States gained a national constitution before achieving a secure sense of national identity. The Constitution was a remarkable, if precarious solution to the problem of federalism. In my view the key question of 1987 no longer concerns the supremacy of the national government over the states. We now confront the issue of whether an immensely powerful national government, particularly its executive branch, will respect a Constitution that is dedicated to the restraint of power. The Constitution will retain its meaning only if the American people insist that public officials abide by its principles.

University of Texas at Arlington

DAVID E. NARRETT

The Genius of the People. By CHARLES L. MEE, JR. (New York: Harper & Row, Publishers, 1987. xi, 348p. Illustrations, appendixes, bibliography, index. \$19.95.)

Charles L. Mee's new book brings the Constitutional Convention to life in an engaging narrative that is enhanced by deft portraits of the principal

actors. Although his story is organized around the series of compromises that enabled diverse, contentious interests to reach agreement, Mee does not discount the importance of ideas. Indeed, he argues, "the delegates forced one another" to invoke and institutionalize "principles" that committed the new nation to an irrevocable course of democratic development (p.4). Despite gnawing doubts about the virtue and wisdom of the people, the delegates made the critical decision that representatives should be popularly elected; as a result, "the American government would derive its legitimacy from the people" (p. 111). So, too, the Madisonian "principle of the extended republic" on which the new constitution was premised would rectify "the problems of democracy" with "more democracy" by extending the franchise and bringing in "more and more constituencies" (p. 139). Thus, even though constitutional reformers were inspired by fears of democratic excesses, they were drawn inexorably toward democratic solutions. In this way, Mee suggests, this conclave of provincial aristocrats ultimately expressed the popular will.

Despite its straightforward historical narrative, *The Genius of the People* is a tract for our times. Mee's belief in our democratic "genius" supports an attractive vision of American political culture. Previous regimes foundered on the contradictory impulses toward order and liberty and toward local and central control. But in the "Great Compromise" on representation delegates did not take an "uncomplicated stand with one or the other of these two impulses." Instead, Mee argues, by choosing both they determined that "neither order nor liberty could be sacrificed in the name of the other." This tension, "excruciating" as it may be, is characteristic of American democracy and the parties of liberty and order are still with us today (p. 306). Struggles to extend the scope of popular politics—and *not* some spurious and indecipherable "original intent"—therefore best express the American genius. The Framers' great challenge was to draft a document that reflected and advanced democratic principles; ours is to preserve democracy by upholding the Constitution.

The weaknesses of Mee's book result from his ahistorical emphasis on the fundamental principles that supposedly guided the Founders, notwithstanding their solicitude for their own material interests. The personalities of the delegates so dominate Mee's account that the political situation of the 1780s remains frustratingly vague. And when the state conventions consider the new Constitution, he is hard-pressed to explain their behavior. The "little states," champions of localism and liberty at Philadelphia, now "fell into line" with an "ease" that should not be as "surprising" as it is to Mee (p. 291). Mee's difficulties are traceable to his unsuccessful attempt to identify the antagonistic parties at the Convention that supposedly embodied his antagonistic principles of liberty and order. Mee recognizes the difficulties—"there were at least two dozen factions represented at the

convention" (p. 155)—but nonetheless concludes that on the level of ultimate vision or principle there *were* two parties. On the one hand, the (James) "Madisonians" were "more given to risk, more oriented toward the future, perhaps more cosmopolitan"; on the other, the (Roger) "Shermanites" or (John) "Dickinsonians" or (William) "Patersonians"—this group's composition and leadership were more evanescent—"tended to be conservative, cautious, even nostalgic for an older order" (pp. 148, 155). Unfortunately, these "parties" are at best a narrative device and a vehicle for Mee's liberty-order dialectic. They obscure much more than they illuminate the real history of the Convention.

The Genius of the People is nonetheless a valuable contribution to the bicentennial. Mee's flawed interpretive scheme rarely interferes with his dramatic, well-paced account of the momentous events at Philadelphia that have shaped our history, whatever the Framers' intentions and whatever our collective "genius."

Southern Methodist University

PETER S. ONUF

The Enduring Constitution: An Exploration of the First Two Hundred Years.
By JETHRO K. LIEBERMAN. (New York: Harper & Row, Publishers,
1987. 494p. Illustrations, tables, appendixes, index. \$27.95.)

Jethro Lieberman, a lawyer and popular writer, has attempted to provide a citizen's guide to constitutional history and present day constitutional law, all in a single volume. Specialists will learn nothing new from this book, but they may nonetheless find it useful when their friends ask them for a brief introduction to the Constitution.

Lieberman begins with an overview of constitutionalism and the framing of the Constitution, and follows with a section, perhaps a bit too detailed, on the structure of government (separation of powers, judicial review, federalism). The next two sections examine the Bill of Rights' guarantees of liberty and the promotion of equality through the equal protection clause. A section on "business and the economy" examines economic due process and the contracts and takings clauses, as well as the use of the commerce power to regulate the national economy. A brief concluding section sums up; Lieberman finds the constitutional system as it has worked rather admirable.

The scope of Lieberman's enterprise led him to make some questionable decisions about how to organize the material. Most notably, the history of the framing of the Fourteenth Amendment, in which questions of racial equality of course figure prominently, introduces the section on the Bill of

Rights, and is therefore separated by more than 100 pages from the discussion of equality. Less important but still a bit jarring, Lieberman describes the impact of Franklin D. Roosevelt's court-packing plan in the early section on judicial review, but discusses the plan in detail only in the much later section on the commerce clause.

Lieberman writes in a popular style, which may be effective in reaching his intended audience. Academics may find some of the colloquialisms—such as explaining the Tudor theory of government by referring to George Steinbrenner's theory of his power over the New York Yankees—a little strained. In addition, Lieberman sprinkles the book with what Norman Mailer once called "factoids," that is, snippets of marginally relevant information intended to lighten the burden on the reader. (An example is a box on "Who Penned [that is, transcribed] the Constitution?"")

It is a bit disappointing but probably accurate to have to say that Lieberman's may be the best single-volume popular introduction to the Constitution. A better package to recommend to friends would be Robert McCloskey's *American Supreme Court*, even though it is now a generation old, and Lawrence Friedman's *History of American Law*. For a single volume, though, *The Enduring Constitution* may be the best there is.

Georgetown University Law Center

MARK TUSHNET

Power and Status: Officeholding in Colonial America. Edited by BRUCE C. DANIELS. (Middletown, CT: Wesleyan University Press, 1986. xiv, 328p. Figures, tables, index. \$37.50.)

Bruce Daniels and ten other scholars examine the political elite at different levels in nine colonies. The eleven essays are basically quantitative in approach and are divided, somewhat artificially, into three strata of leadership—local, colony-wide, and intercolonial, the last encompassing colonial councils. Locally, Ronald Snell, Bruce Daniels, and Lorena Walsh examine the magistracy of Hampshire County, Massachusetts, selectmen in Connecticut, and the political elite in Maryland's lower western shore, respectively. As for colony-wide elites, Richard Ryerson and Alan Tully each analyze Pennsylvania, particularly the Quaker party; Roger Ekirch examines the North Carolina Assembly; and Richard Waterhouse views the elite of South Carolina. The councils of New York, New Jersey, and Virginia are scrutinized by Jessica Kross, Thomas Purvis, and Grace Chickering, respectively. Finally, Thomas Wendel quantifies the colonial Speakers of the House. The quality of the essays is generally high, although Ekirch's contribution is far too brief and sketchy, while that of Wendel is of little value.

Although certain common denominators can be detected among colonial elites, this book indicates that generalization is dangerous, given the impact of local circumstances and traditions. Thus, Hampshire County, Snell asserts, was dominated by six families who perpetuated and expanded their power by intermarriage, by presiding over the settlement of new towns, by permitting qualified outsiders to enter their ranks, and by local control of patronage. They were aided by the lack of seriously divisive issues and by identical economic interests. While wealth was important, ability and connections were most significant. Yet Hampshire was unique in eighteenth-century Massachusetts.

The annual election of selectmen in Connecticut towns was relatively democratic at first, with short tenures and high turnover, but growing urban complexity necessitated men with more ability, time, and experience. The office became increasingly oligarchic. But Daniels, like Snell, stresses the highly idiosyncratic pattern of officeholding by selectmen in the various towns, due to local circumstance and tradition.

On the lower western shore of Maryland, local circumstances were significant, for the population there until the 1690s was composed primarily of immigrant indentured servants; rulers were therefore untraditional, their authority resting largely on ability. In time, the political elite became wealthier, better educated, and better connected. A small number of families predominated. Yet local differences again existed; Charles and St. Marys Counties had fewer rich, well-connected men than did either Calvert County or Prince Georges County.

In Pennsylvania, Ryerson and Tully argue the uniqueness of the Quaker party, whose power rested on the four oldest counties. Whiggish, anti-proprietary, and fiercely possessive towards Pennsylvania, it remained generally popular with Quakers and non-Quakers alike until the 1770s. The authors explode the myth that the withdrawal of many Quaker assemblymen in 1756 destroyed the party. With astute leadership, control of committees, popular policies, great wealth, and close kinship, the Quaker party remained dominant in the Assembly. It finally lost control in the 1770s as Pennsylvania expanded westward and as imperial issues impinged on the colony.

The North Carolina Assembly during the royal period saw seventy-three men occupy major leadership positions. According to Ekirch, North Carolina's emergent elite was young and mostly non-native, with sizable landholdings, local governmental experience, poor education, and less kinship ties than other colonial elites, and, reflecting the turbulent nature of the colony, showed a marked tendency towards corruption.

In South Carolina, Waterhouse believes the elite was initially motivated by economic self-interest. But after a period of disinterestedness in politics by all concerned, such new developments by the 1750s as rapid settlement

of the back country and distrust of British policies produced renewed political awareness. Electoral contests became bitter, but self-interest gave way to public interest. Leadership passed from the planters to wealthy merchants and lawyers, aided by the status accorded to representatives who resided in Charles Town.

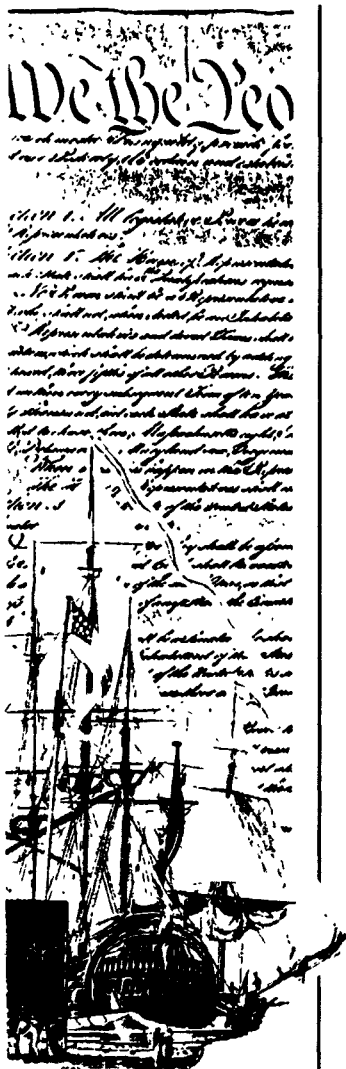
While scholars often have focused attention on colonial assemblies as the source of political power, Kross and Purvis emphasize that the councils of New York and New Jersey each had significant political impact throughout the royal period, and that each attracted men of wealth and ability. The New York Council functioned as an upper house, privy council, and court, and it had substantial control over patronage, contracts, and distribution of unclaimed land. Merchants and lawyers, often interrelated, dominated the Council, aided by the importance of New York City. The New Jersey councilors in the royal period were often non-residents, exceptionally affluent, interrelated, and increasingly engaged in commerce or the law. Over half were East New Jersey proprietors. The New Jersey Council advised governors, reviewed legislation, and controlled civil and military commissions. Despite a period of unpopularity, the councilors were actively solicited by New Jersey's Whigs for leadership positions in the Revolutionary government. The refusal of most councilors to serve destroyed their position after 1776.

Like Kross and Purvis, Chickering stresses the importance of Virginia's Council as adviser, upper house, and supreme court. It attracted men of immense wealth and influence, whose families, in a deferential society, also exercised enormous local power. Unlike the New York and New Jersey Councils, however, Virginia's became largely ceremonial by 1722.

Historians are focusing increased attention on the nature of political elites in colonial America. Although this book is suggestive rather than conclusive, it does indicate that the formation of elites often depended on unique local circumstances, and that further detailed studies at all levels of government are vital. With more than eighty tables and copious endnotes, this book will be of great value to those historians who intend to provide such studies.

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