

EDITOR'S NOTE

Welcome to the first issue of *Constitutional Studies*. This journal is brought to you with the generous support of the Bradley Foundation and the Center for the Study of Liberal Democracy at the University of Wisconsin–Madison. While this first issue has been considerably delayed by a variety of technical factors, we are confident that future issues will be forthcoming on a regular and timely basis.

The mission statement for this journal describes its goal as the presentation of research and analysis concerning constitutions from a broad range of viewpoints and approaches. The selection of articles in this first issue bears out that mission statement.

In “Young Jeffersonians and Adult Marshallians: Constitutional and Regime Transitions in Public Schools and Nation-States,” Mark Graber explores ways in which constitutional theories appear in places far removed from the halls of appellate courts. Graber considers the provocative idea that there are distinct and characterizable forms of constitutionalism that appear in student councils. Using Jefferson and Marshall as two broadly drawn templates for constitutional reasoning, Graber proposes that the thinking about rules and their interpretation that occurs in student councils is no less “constitutional” than the reasoning of the justices of the U.S. Supreme Court; it just displays a different version of constitutionalism at work. The implications of Graber’s argument are that “constitutionalism” is a phenomenon that we can see all around us if we only look and if we are open to the possibility of multiple different forms of the concept.

In “Restoring Lost Liberty: François Hotman and the Nationalist Origins of Constitutional Self-Government,” Ethan Alexander-Davey provides us with a study in the intellectual history of constitutionalist thought. Focusing on the underappreciated work of François Hotman, Alexander-Davey shows unexpected nationalist

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roots to what is usually thought of as liberal constitutionalism. Insofar as we seek to understand constitutionalism as a system of ideas, not merely a set of rules, this kind of excavation of the source materials makes an important contribution to our understanding. Ideas, as Alexander-Davey reminds us, have histories that shape and inform their meanings, and examining these histories challenges received notions of how different forms of constitutionalism relate to one another.

Clement Fatovic's article, "James Madison and the Emergency Powers of the Legislature," focuses on American constitutional practice, specifically the thinking of James Madison. Fatovic's exploration of Madison's treatment of emergency powers fills in a missing element in the thought of one of America's most important constitutional theorists. By extension, Fatovic's exploration of Madison's thinking points to the necessity of reading different elements of constitutional understanding together, as parts of a whole rather than as discrete, technical subjects. Fatovic's careful reading of Madison demonstrates that understanding the treatment of emergency powers in a constitutional theory illuminates the entirety of an approach to constitutionalism.

Thomas Keck's contribution, "Hate Speech and Double Standards," is of a different sort. Keck considers the unintended consequences of legislation intended to limit hate speech. While issues of legal doctrine are at the forefront of the discussion, Keck looks more deeply into the implications of legislation—the message that is sent to both those who are directly affected and those who are left out of the law's reach, the implications for analyzing other speech-related regulations—to consider the implications of legislation banning hate speech for constitutional principles generally in addition to specific issues of free speech protections. Keck's essay is thus a fine illustration of the way a question of constitutional law can be explored as a question of constitutionalism more broadly understood, an approach that has application in a wide range of areas.

Finally, Zoltán Szente contributes a study of ideology among justices of the Hungarian Constitutional Court in "The Political Orientation of the Members of the Hungarian Constitutional Court between 2010 and 2014." Szente applies methods and approaches developed by political scientists studying American courts to a comparative analysis of a critically important era. Szente's empirical and data-driven approach is a fine complement to the other approaches exemplified in this volume. His conclusions are disturbing, as his analysis indicates a strong and pervasive effect of political ideology in the constitutional decision-making process.

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The image on the cover is a statue of John Marshall. The statue now resides in the rotunda of the first floor of the United States Supreme Court building. Marshall, of course, is an important figure in American legal history, but his presence on our cover is for another reason. It is a fine parlor game for historians to argue about when and where the first true “constitution” was created, and the intellectual roots of constitutionalism can be traced to ancient times. But the judicial opinions of John Marshall mark a turning point in modern constitutionalism, combining a theory of jurisprudence, a set of political theoretic principles, and recognition of conventional institutional practice. It is for this reason that we have chosen Chief Justice Marshall to provide the visual introduction to our journal.

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