constitution, in other words, would enable civil society to have it both ways—prerogative to deal with unforeseen contingencies, and the rule of law to ensure that its exercise would not be abused. The United States Constitution seeks to strike the proper balance, but, Kleinsman argues, Hamilton’s reading of Article II, especially in his Pacitius essays (written in 1793 to defend President Washington’s Proclamation of Neutrality), tilts this balance too far in the direction of executive prerogative. It was Madison, he says, who, by questioning the thrust of Hamilton’s argument for implied powers, got the balance right.

Fativic would generally agree, although for slightly different reasons. His main theme concerns the irreducible necessity for virtue in a republic—in the person no less than in their chief executive. He argues that modern political theory’s emphasis on creating institutional surrogates for the want of character will not avail. Government of appeal. This means—indeed—Hamilton and although some institutional solutions are better than others, constitutional structures can accomplish only so much. At the same time, he agrees with Kleinsman that a well-constructed constitution will induce habits of mind and heart.

government is not a machine, Neutrality), tilts the balance too far in the direction of Hamilton’s argument for implied powers, got the balance right. But, Kleinsman says, who, by questioning the thrust of the advice they might have given President Lincoln. Hoffmann argues, for example, that President Bush acted too often without consulting Congress. Despite Bush’s occasionally extravagant claims to unilateral power, the charge will not withstand much scrutiny. The record will show that Congress was reasonably well informed on most, if not all, of the larger issues, and that it either formally authorized, or acquiesced in, virtually everything he did. All of which may simply be to suggest that refined understanding of a problem may not yield much in the way of practical results. As Locke, Hamilton, Madison, Jefferson, and Lincoln all recognized, albeit in different ways, self-preservation is the first goal of liberal constitutionalism. One can only speculate about the advice they might have given President Bush under circumstances they could scarcely have imagined—or whether our constitutional order would be necessarily better off if he had listened.

Michael M. Ullmann is visiting professor of political science at Claremont Graduate University.

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Marshall’s writings includes the full text of some of his most celebrated opinions, including

Markbury v. Madison (1803), declaring the power of the federal courts to void laws as unconstitutio-

nal: McCulloch v. Maryland (1819), upholding the constitutionality of the Bank of the United States; Plender v. Pick (1822) and Dartmouth College v. Woodward (1819), both affirming constitutional protection for rights of property and contracts; and Gibbons v. Ogden (1824), reading the Constitution as conferring on Congress broad powers to regulate inter-

state commerce. But Charles Hoffmann, the editor of the Marshall Papers and of this collec-
tion, wisely includes a generous selection of personal correspondence, the issue of a long-

engaged life lived largely on the road. At the time, Supreme Court Justices were required to "ride circuit," sitting with lower federal court judges in an assigned geographic region to form regional federal judicial circuits. It was not uncommon, according to Robert Remini’s biography of President Jackson, for a Justice to spend most of his time on the road, and this was not unusual for Chief Justice John Marshall. The Library of Congress repository of the Supreme Court’s history (he served from 1801 to 1835), Marshall’s public life was long, varied, and eventful.

As a young soldier in the Continental Army, he saw action at Brandywine, Germantown, and Monmouth, and spent the brutal winter of 1777–78 at Valley Forge. Elected in 1782 to the House of Delegates in his home state of Virginia, Marshall was subsequently elected to the state’s constitutional ratifying convention, where he sparred with the Anti-Federalist Patrick Henry in the ratification debates. As the behest of President John Adams, he joined Charles Cotesworth Pinckney and Elbridge Gerry in the diplomatic mission to France which culminated in the XYZ Affair: the French insisted upon bribes as a precondition to negotiating, ener-
ging the young nation. Though he would have preferred to continue his Richmond law prac-
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ington’s entreaties and served in Congress. He was subsequently tapped as Adams’s secretary of state, before becoming one of the president’s “midnight” appointments in the final hours of his administration, when Adams named Mar-
shall the nation’s fourth Chief Justice.

Hardly indifferent toward practical conse-
quences, Fativic is relatively more interested in tracing the political theory of the modern executive. Kleinsman, who is also left in his handling of modern political theory, is relatively more interested in exploring the delicate balance between prerogative and the rule of law as it has worked itself out in American political experi-
ence. He looks to Lincoln as the proper mod-
em exemplar because Lincoln understood that extraordinary (and temporary) exigencies justified departure from the law; but by seek-
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If Marshall’s opinion of Jefferson was low, his estimation of Jefferson’s partisans was subterranean. On the eve of the third president’s inaugura
tion in 1801, Marshall pointed out that the democrats are divided into speculative theorists & absolute terrorists. With the latter I am not disposed to class Mr. Jeffer
sons. For, he arranges himself with the people & this power is chiefly acquired as opinions of all those who have successively filled the judicial department,” he wrote with considerable care. “I find myself more stimulated on the subject than in any other,” he wrote to Story in 1811. Marshall prophesied that Joseph Story’s “specious... despotism of the judges & inpair the constitution.” To excite this ferment the [Court’s] opinion has been misused & perverted. He would not absolutely arrest the progress of the government, it would certainly deny to those who administer it the means of executing its acknowledged powers in the manner most advantageous to those for whose benefit they were conferred.

Marshall firmly rejected the proposition that the national government possessed only the power to undertake those tasks necessary to its preservation. He defended instead the view that the national government possessed an inherent power to provide for the nation’s “happiness, as well as its existence, its interest, its power & its safety.” He reminded his critics that “[t]he equipage... established [by the Constitution] as so much disbursed by taking weights out of the scale containing the powers of the government, by putting weights into it.” These views were the natural consequence of neither liberal nor strict interpretation but rather fair construction, considered, with Marshall, a bastion of judicial restraint and faithfulness to the nation’s political economy. The court’s role was to promote the objects for which they were to belong to the Congress, and considered and approved at Joseph Story’s behest, he recalled that they were to “promote the objects for which they were made.”

In subsequent years, Marshall and his colleagues were the subject of much praise and eulogistic offers. The political philosophy for allowing us to confront the dual nature of human beings. Whereas writing about classic figures in western political thought or contemporary approaches to civil religion, the authors demonstrate the sheer indispensability of political philosophy for allowing us to confront the dual nature of human beings. (Daniel J. Mahoney, Assumption College)

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A timely exploration of the problem of civil religion in the history of political thought

“[t]he one thing, he told his cousin Humphry Marshall that ‘[t]he time is arrived when our political philosophers must be generally speaking when the union is an end. The idea of complete universal government in the states converts our government into a form of monarchy. If the states would not absolutely arrest the progress of the government, it would certainly deny to those who administer it the means of executing its acknowledged powers in the manner most advantageous to those for whose benefit they were conferred.’

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Page 58
Page 99

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