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SOVEREIGNTY AS DISCOURSE

THE LANGUAGE OF LIBERAL CONSTITUTIONALISM. By Howard Schweber.[1] Cambridge University Press. 2007. Pp. 386. Hardback. $90.00.

Robert L. Tsai[2]

Studies of language and its relationship to democratic constitutionalism have yielded a number of insights, but major contributions have been harder to come by. This may be partially explained by the multiplicity of disciplines from which a theorist might draw to investigate this nexus. It might also be attributed to the varying degrees of seriousness with which synthetic treatments have been undertaken. There certainly is no shortage of possibilities for language to play within a theory of constitutionalism. Words can serve purely an instrumental function in the resolution of issues or the broader elaboration of democratic "principles," "intentions," "expectations," or "values"; they may be constitutive of legal ideas or broader affinities; or they might shape, delimit, or organize the range of political and legal possibilities open to certain institutions or society as a whole.

On to this landscape appears Howard Schweber's learned and ambitious book, *The Language of Liberal Constitutionalism.* Professor Schweber, who teaches political theory and law at the University of Wisconsin, takes seriously the proposition that the relationship between language and constitutionalism must be both carefully investigated and normatively justified. Arguing from within liberal theory, he boldly argues that "the creation of a legitimate constitutional regime depends on a prior commitment to employ constitutional language, and that such a commitment is both the necessary and the sufficient condition for constitution making" (p. 7).

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If Schweber's work is measured against this criteria—the disciplines upon which he draws, the seriousness with which he undertakes the project of synthesis, and the role that language plays in the process of constitutional lawmaking—it is possible to evaluate the strengths of his treatment as well as the basic project of theorizing a place for language in democratic constitutionalism.

I

Lately, law-as-language scholarship has fallen into one of two broad genres. First, one might turn to linguistics, rhetoric, or psychology to shed light on particular social ills or the dynamics of judicial reasoning. We might call this an instance of applied language studies. Such works are too numerous to count, but the best of such work include treatments by Lawrence Solan and Steven Winter.[3] Second, drawing upon the rhetorical tradition, one might theorize more broadly the ways in which language provides a means for collective self-governance. In this oeuvre, we encounter the work of contemporary authors such as Paul Kahn, Martha Nussbaum, Jefferson Powell, and James Boyd White.[4]

The Language of Liberal Constitutionalism falls squarely within the second genre. It is a work of high theory, crafted with an eye toward provoking a reconsideration of the nature of constitutionalism, liberalism, and judicial review. If Schweber elaborates a central thesis, it is that "sovereignty is not authority over language; it is rather authority exercised as a language" (p. 133). In making this initial characterization of the relationship between language and politics, Schweber powerfully restates the terms of the debate. The strongest claim about law is that it is not merely a tool for articulating a preexisting political will, but rather that the two are, in some elemental manner, indistin-

3. *See* LAWRENCE SOLAN, THE LANGUAGE OF JUDGES (1993); STEVEN L. WINTER, A CLEARING IN THE FOREST: LAW, LIFE, AND MIND (2001); Clark Cunningham *et al.*, *Plain Meaning and Hard Cases*, 103 YALE L.J. 1561 (1994); Steven L. Winter, *The Meaning of "Under Color of Law,"* 91 MICH. L. REV. 323 (1992).

4. *See* JOHN BRIGHAM, CONSTITUTIONAL LANGUAGE: AN INTERPRETATION OF JUDICIAL DECISION (1978); PAUL KAHN, THE REIGN OF LAW: *MARBURY V. MADISON* AND THE CONSTRUCTION OF AMERICA (2002); MARTHA C. NUSSBAUM, POETIC JUSTICE: THE LITERARY IMAGINATION AND PUBLIC LIFE (1997); H. JEFFERSON POWELL, A COMMUNITY BUILT ON WORDS: THE CONSTITUTION IN HISTORY AND POLITICS (2002); JAMES BOYD WHITE, LIVING SPEECH: RESISTING THE EMPIRE OF FORCE (2006); JAMES BOYD WHITE, HERACLES' BOW: ESSAYS ON THE RHETORIC AND POETICS OF LAW (1989).

guishable. Far from occupying a subordinate status, the true role of language is to constitute the political will, giving it recognizable form and rendering it a matter of everyday practice. Sovereignty exists only to the extent it can be given linguistic meaning.

Here Schweber is at his best, revisiting the writings of Locke, Bodin, and Hobbes in order to show how liberal theorists subordinated language to the popular will without sufficiently interrogating the interrelationship of the two. He convincingly establishes how a pre-existing language must exist for an initial act of political creation to have meaning, as well as for subsequent exercises of political will to be comprehensible. The writing is crisp, insightful, and exhilarating as the book weaves in and out of major works in the liberal canon. Few who work in this vein have bothered to engage such texts (White is one of the few who come to mind)—and Schweber goes deeper than most. A relationship between self-government and language has been presumed more than it has actually been theorized, which makes a return to canonical texts in the field of politics with this question in mind so timely. It is a question that is made all the more pressing in light of the broader turn toward the humanities and social sciences to illuminate the Constitution, which has all too often ignored normative questions in the quest for a sound descriptive theory. In the search for a coherent account of constitutional language, Schweber reminds us that what the proper role language *should* play must be answered by reference to a community's authoritative traditions.[5]

Schweber separates himself from others working in this vein by claiming that a common language is sufficient to comprise a people's constitutional project and by generalizing the nature of liberalism across populations, experiences, and cultures. What are we to make of Schweber's rather strong claim that a people's consent to use a common language comprises not only the beginning but also the core of the liberal project? Many would admit that the existence of a shared language is a necessary precondition for constitutionalism, but is it *sufficient*? The claim that a common, artificial mode of discourse is enough to legitimate a legal regime should strike readers as novel as it is pro-

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5. Schweber and I are in accord on this point. In my own writings, I have suggested that historical practice and the importance that institutions play in American constitutionalism provide independent reasons for taking the normative question seriously. *See* ROBERT L. TSAI, ELOQUENCE AND REASON: CREATING A FIRST AMENDMENT CULTURE ch. 2 (2008); Robert L. Tsai, *Democracy's Handmaid*, 86 B.U.L. REV. 1, 6–11 (2006).

vocative. Insofar as it is possible for a people to agree to anything at all over a period of time, a particular way of talking politics might be the most we can expect.

Whether imagined as revealed in the moment of constitution writing as a commitment to a particular language (Schweber's approach) or in how Americans have actually employed that language over time,[6] the consent approach seems strongest here precisely because it is possible to imagine agreement as to rhetorical form while recognizing profound disagreement over substantive principles, end-goals, and worldviews. An individual might decide to take his chances and participate in such a political order. With life circumstances hypothetically veiled or even with full knowledge of actual privileges and disabilities, broad consent is possible because the system formally ensures no permanent winners and losers, and secures everyone's capacity to dissent. A shared language is sufficient to bind the citizenry and thereby create political order because a constitution can still be said to be functioning even if dominant readings of text change over time, institutional alignments are in flux, or if officials endorse opposing values at different historical moments.

Notice that if a common language is enough to legitimate the product of public debate as *constitutional*, then we find ourselves in a world in which a constitution is no longer primarily about ensuring the durability of particular ideas (written or unwritten)—only some continuing minimal commitment to such a project is enough. It is a world in which fierce contest over conceptions of the good life persists, as well as over the procedures for debating and implementing such valuations. In a society governed by agreement to utilize a particular language, even a great deal of governing language remains up for grabs.

Is there some point at which talking intelligibly is not enough? What if authoritative speakers continued to mouth familiar words, but the meanings of such words became so distorted in concrete cases that average citizens see a perversion of prevailing or committed values—would we still have a constitution? I suspect Schweber's answer would be "no," though how we would recognize that line had been crossed is unanswered.

This brings us to the author's goal of establishing the existence of liberal language. Has there ever been something we can describe as a single "liberal constitutional language"? If so, does

6. This would characterize the approach of those who have focused on actual usage of constitutional language, including my own work to this point.

it exist now? The claim, which moves beyond the question of consent, actually combines a historical claim with an empirical one, but the book doesn't make significant headway on either, mostly because of its methodological constraints. To make such a claim of universality with greater force, Schweber might consider comparative treatments to show whether and, if so, to what extent the foundational discourse of England or France or Canada really can be said to resemble the language of American constitutionalism. It may be that differences among citizens' encounters in liberal democracies amount to differences in dialect or usage. But it may instead be that, upon further investigation, these differences are so great it makes better sense to treat each polity as having its own democratic language.

The suggestion that a universal liberal language unites democratic citizens across geographic boundaries and national affinities is a tempting one, giving rise to many intriguing collateral ramifications if true. Claims of a common linguistic or cultural heritage have been a staple of public debate and political theory. Yet an anthropological skepticism may be warranted to leaven Schweber's account, which proceeds thus far exclusively from within liberalism itself. Taking theorists' assertions at face value risks replicating liberalism's ideological ambitions rather than uncovering its many instantiations.

II

Having made his case that liberal constitutional language is a distinctive phenomenon, Schweber proceeds to unpack the implications of this revelation. Because his aim is to delineate the basic features of something approaching a universal liberal language, this initial commitment pushes him toward broad and thin characteristics that might be amenable to consent from a diverse citizenry. Such a strategy might also aid the account in surviving an empirical challenge. Incisively discussing the work of contemporary liberal theorists, he argues that there are three necessary traits of a common constitutional language: *exclusivity*, *incompleteness*, and *substance*. By exclusivity, Schweber means that appropriate constitutional grammar has an "exclusionary effect on some set of propositions" (p. 203). By "incompleteness," he means that "some degree of 'incompleteness' at the semantic level" and "some degree of openness to different substantive conclusions" must be tolerated (pp. 227–28). By "substance," he refers to the rules and outcomes that might be

adopted, and over which passionate dispute should be anticipated. Relying on Dworkin's writings on the orientation that a legal actor should adopt toward the task of interpretation,[7] Schweber contends that respect for officials who act with "integrity" in employing constitutional language satisfies this condition (pp. 290–91, 318).

There is a way to read Schweber's derivation of these traits as arising from basic intuitions about the social world. Although legal language presents itself as distinctive and autonomous, in fact it cannot hope to capture the universe of discourses and human experiences (p. 220). Similarly, it is impossible to have rhetorical form without some content. Content and form come together in some magical fashion with any effective mode of deliberation. But Schweber's elaboration of the notions of exclusivity and incompleteness seem to be based on something more: the sketch of a linguistic apparatus to which most citizens might agree—what he refers to as "the level of semantic commitment" (p. 227). Seen in this light, Schweber is searching for structural conditions that might garner the most social support—explicit or otherwise—from the broadest range of citizens, and "in the face of a plurality of value commitments" (p. 324).

Having committed himself to three semantic principles, the author goes on to say something about how a working system of foundational discourse should appear. To Schweber, the meaning of a term "may—indeed, is most likely required to—grow away from the meanings attached to those terms in ordinary, legal, or religious discourse" (p. 307). Thus, a mature system of constitutional language becomes increasingly autonomous, specialized, and secular. Yet each of these claims would fare better with further refinement.

Legal language appears to be increasingly autonomous, specialized, and secular if one shifts perspective from a general description of constitutional language in society to inhabiting the mindset of a particular institutional actor (*i.e.*, the jurist), and only if certain contingencies of historical development hold true

7. RONALD DWORKIN, FREEDOM'S LAW: THE MORAL READING OF THE AMERICAN CONSTITUTION (1996); RONALD DWORKIN, LAW'S EMPIRE (1986). Dworkin argues that legal actors must behave according to a norm of "integrity," such that the law is treated in a manner that gives it internal coherence. DWORKIN, LAW'S EMPIRE, *supra*, at 184. In Schweber's formulation, "a strong norm of integrity creates a constructive discourse among the members of a political association," leading to "the proposition that a constitutional language is required, at a minimum, to contain a degree of normative substantive sufficient to generate an integral normative system" (pp. 288–91).

in the long run. Actual practice has proven more complicated. Nowhere is the reformulated integrity thesis more provocative, and possibly erroneous, than in the author's assertion that constitutional language must be preserved against religious discourse.[8] I read Schweber to mean that a constitutional actor should not point to sacred texts or traditions to flesh out the meaning of text, give religious reasons for taking a legal position, or draw upon sacred imagery to persuade. Importantly, he does not argue that claims based on morality or religion are excluded totally, but that they must "undergo translation into constitutional language before they can become elements of a legitimate constitutional discussion" (p. 14).

Adherence to a modified Lockean notion of consent continues to drive this aspect of his thesis, namely, that citizens would agree to engage only in secular modes of discourse. An atheist might object to a wide-open regime of debate for fear that religious discourse will inevitably embody a preference for a particular worldview, but ideological spillover is a risk entailed in any form of argumentation. Moreover, why would anyone else renounce religious arguments? Given that faith comprises a facet of many citizens' understanding of the good life, agreeing to relinquish such an effective and responsive mode of debate seems doubtful in the original position or at the moment of constitution writing.[9] Perhaps the atheist would find instrumental reasons for keeping religious modalities in circulation, even where ascriptive rationales are wanting.

In fact, Americans' experience in liberal self-governance is awash in sacred imagery. The Declaration of Independence begins with a direct appeal to "the Laws of Nature and Nature's God," in particular, the rights of men "endowed by their Creator." It may be true that the draftsmen of the Constitution toned down religious references, but one searches in vain for an explicit bar on any forms of constitutional argumentation. Even

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8. Elsewhere, the author contends that resort to the common law in constitutional adjudication "threatens the integrity of constitutional language" (p. 332). This point is not developed at length, but is provocative enough that it deserves greater airing. For it presumes that common law methods are different enough from legitimate sovereignty-based discourses to put the latter at risk, and also that they cannot be counted as simply a set of conflict-resolving protocols that are compatible within a rich linguistic tradition.

9. In America, for instance, belief in God or some higher power remains a powerful force in many citizens' lives, even though organized religion has given way to more individualistic, pluralistic, and informal modes of religious identification and self-organization. See *Gallup: Religion*, <http://www.gallup.com/poll/1690/Religion.aspx>. A person in the original position might not agree to give up a persuasive method of relating to others for fear of turning out as an atheist when the veil of ignorance is stripped away.

when we turn to judges in particular, the ratification debates confirm, rather than undermine, that a significant range of rhetorical discretion was intended (Schweber is on firmer ground in arguing that whatever constitutional argumentation is, it's certainly not talking about ordinary law).[10] The absence of methodological restrictions in construing the Constitution may explain the author's effort to describe a ban on religious justifications as a background norm required by the liberal tradition. It is possible to argue that that religious arguments are uniquely distorting during the process of give-and-take, but that position would have to be defended. None of this is to say that such a rule of exclusion cannot be justified, but only that it does not flow inexorably from Schweber's earlier premises or Americans' own exercise in constitution writing.[11]

Natural law rhetoric infused governing ideas at the Founding and for many generations thereafter, and a significant mixing of the secular and sacred remains in modern debate. It is true that direct invocations of religious text are now generally disfavored in judicially sanctioned readings of the law, and especially in the collaborative opinions produced by the United States Supreme Court, but this is a relatively recent development. And even if modern judges prefer the general terminology of "morality" over openly religious idioms, it seems unlikely that ordinary citizens, whose allegiances to the state arise from both rational and ascriptive dynamics, would have similar qualms.

Moments of revolutionary change (creation or renewal) are often accompanied by a burst of popular appropriation from religious traditions regarding higher obligations, democratic faith, social justice, and other affinity-based ties that bind. Schweber's rule of exclusion would take such arguments off the table for the slaveholder and the abolitionist alike, the defender of traditional marriage as well as the activist who believes that Christian charity favors inclusive treatment of the despised. Even if it is true that sacred ideas must interact with secular ones for them to be taken seriously as constitutional arguments, their power depends not in the sanitization of their religiosity, but in the fact that parochial elements remain recognizable. Hybridity, then, is

10. *See* TSAI, *supra* note 5, at ch. 6.

11. Should such a rule of exclusion be treated as an instance of equal treatment because the religiously-motivated speaker is not prevented from participating in public debate so long as he speaks in neutral terms? Or is this a violation of the notion of equal liberty? For a discussion of the challenges of religion in a democracy, see AMY GUTMANN, IDENTITY IN DEMOCRACY 151–91 (2003).

achieved through a synthesis of constitutional language with ordinary language rather than a one-for-one substitution of, say, secular modalities for religious ones. Depending on how it is enforced, Schweber's exclusivity thesis risks making liberal constitutionalism more elite or pristine than actual linguistic practice suggests. Because ideal theory is the name of the game, some divergence between practice and aspiration is perfectly acceptable. But the point at which a disjunction matters is when the definition of a people's shared language stops promoting participation and starts fueling alienation.

It is now possible to see that Schweber's ambition to trace the structure of liberal constitutionalism, which encompasses many different nations, each with its own indigenous culture and democratic iterations, exerts hydraulic pressure on his claim that liberalism demands secularization. Schweber's detailed treatment of Locke's ideas, especially the decision to "sever[] the legitimating basis for government from any necessary theological source" (p. 61), gestures toward a justification from within liberalism. But if so, the American experience, with its citizens' frequent resort to religious grammar and ideas to invigorate constitutional text, would have to be seen as a special case, an anomaly. Whatever the truth, the point remains: the secularization of constitutional language is not obviously compelled by the tradition itself. Nor is it apparent that the strong trend against invocations of the sacred is here to stay (it goes without saying that a number of established and fledgling democracies overtly mix the two, though it may be possible to deny some of these societies the label of *liberal* democracy).[12]

Once sovereignty is conceptualized as the exercise of a self-contained language, rhetorical choice must be not only authorized but also disciplined. The question that arises next: just how disciplined must that political language be? To Schweber, "serious errors of modern constitutional practice appear in the failure to preserve the boundaries of constitutional language against a variety of competing forms of discourse, including the languages of religious morality and ordinary law" (p. 8). Schweber is chiefly concerned with the "degradation" of constitutional lan-

12. For a discussion of some of these polities, see NOAH FELDMAN, AFTER JIHAD: AMERICA AND THE STRUGGLE FOR ISLAMIC DEMOCRACY (2004) (proposing a state that endorses Islam as official religion but is otherwise compatible with liberal constitutionalism); Nelson Tebbe, *Witchcraft and Statecraft: Liberal Democracy in South Africa*, 96 GEO. L.J. 183 (2007) (discussing how South Africa can accommodate witchcraft while adhering to central tenets of liberalism).

guage as a self-contained system. But is it the appearance of being compromised or the fact of impurity that worries Schweber the most? This remains uncertain. What begins as a general inquiry into the structure of foundational discourse eventually turns into a more focused investigation into how judges should understand their own roles within this system.

III

Because Schweber shifts from elaborating the elementary features of constitutional language to prescribing a particular institutional role, fresh considerations necessarily arise. It is not clear whether judicial decisions are merely one instance of a general phenomenon or instead are unique, perhaps even privileged speakers, bound by institutionally-specific roles. There may be reasons why we might prefer judges to speak in a particular way but would tolerate greater latitude among ordinary citizens or elected officials. Or perhaps Schweber's point is that despite differences in office, the structure of foundational discourse remains largely the same.

To the extent that juridic language is what he focuses upon, leaving aside the nature of non-judicial discourse, Schweber heartily endorses the translation model of adjudication.[13] He insists upon "the necessity of translation, the obligation to convert propositions of moral or policy preference or ordinary law into constitutional language" (p. 318). But which is it? Is a decision-maker "translating" moral values first articulated by others into another language? Is he "converting" policy preferences into more intelligible or more inaccessible terminology? In fairness, Schweber is not alone in relying upon this analogy. Many respectable theorists, not to mention actual judges and lawyers, find themselves attracted to the translation trope because the cultural associations of the metaphor are quite strong. The "interpretation" model acknowledges, implicitly, that judges are doing something when they read text; and yet it couches the act in terms that evoke notions of fidelity and accuracy.

There are times that Schweber appears to be not only describing how the system works, but also staking out a position with more normative bite. This is one of them. To Schweber, "the importation of legal and moral norms into constitutional discourse represents examples of the failure of judicial actors to

13. TSAI, *supra* note 5, at ch. 6.

maintain the exclusivity and incompleteness of constitutional language" (p. 333). The author presumes, but does not elaborate, why judges are especially competent to patrol the boundaries and content of governing language.[14] He states simply: "Constitutional officials' authority derives from their special expertise in helping us fulfill our commitment to the creation and maintenance of constitutional language better than we would be able to do on our own" (pp. 316–17).

This is an intriguing point. Even so, whether and to what extent jurists' rhetorical preferences should be granted a monopoly over competing formulations is a separate question that assent to a shared language alone cannot resolve. I might choose to abide by a common language for reasons of intelligibility and fellowship, but I cannot imagine giving up my rhetorical autonomy over foundational language to some institution or others. At this point, it is possible to imagine a kind of partial consent over governing discourse: granted to certain institutions for the purpose of dispute resolution because legal controversies must be decided, with sovereignty over language and values retained by the people themselves. Instead, Schweber prefers more complete alienation of control over language: "citizens remain autonomous legal subjects, but at the cost of losing the freedom to choose the language they employ in articulating legitimating claims" (p. 316). Subsequent transformations may alter the substance of legal language, but they cannot generate consent in the sense that Schweber has defined it.

All of this suggests that once the question of institutional authority over language is taken up in earnest, we must confront substantive commitments more directly. Schweber's criticism of value-laden theories fuses his minimal account of legal language (the book's initial set of claims) with his minimalist account of judicial review (sketched later in the book). Thus, as a work of constitutional (as opposed to merely language) theory, it positions itself as thinner than Dworkin, less departmentalist in orientation than Whittington,[15] and less unruly than, say, Ackerman[16] or Kramer.[17] Its focus on the "minimal content" of

14. For a critique of the grammarian's approach, see J.M. Balkin & Sanford Levinson, *Constitutional Grammar*, 72 TEX. L. REV. 1771 (1994).

15. KEITH WHITTINGTON, CONSTITUTIONAL CONSTRUCTION: DIVIDED POWERS AND CONSTITUTIONAL MEANING (1999).

16. BRUCE ACKERMAN, WE THE PEOPLE: FOUNDATIONS (1993); BRUCE ACKERMAN, WE THE PEOPLE: TRANSFORMATIONS (1992).

17. LARRY KRAMER, THE PEOPLE THEMSELVES: POPULAR CONSTITUTIONALISM AND JUDICIAL REVIEW (2004); Larry Kramer, *Popular Constitutionalism, circa 2004*, 92

constitutional language makes it a close cousin of Sunstein's Burkean minimalism through its reliance on its idea of an incompletely theorized agreement,[18] without minimalism's commitment to procedure or tradition.

Even so, this positioning with respect to the judicial function is surprising in more ways than one. Having started with the premise that legal discourse is a species of political discourse, Schweber eventually takes the position that those connections must be severed, or at least minimized. And it is up to judges to spearhead this program. Rather than a rich governing language arising from and sustaining its contacts with its multiple sources, he envisions a specialized language "that does not keep 'one foot in the lifeworld,'" and does not "assert the constructive authority that positive law exercises" (p. 313). Perhaps the juridic language of resolution should tend toward broad and generic statements for reasons of inclusion, but if it does so, it risks obscuring the questions of power that lie behind such judicial presentations and misleading citizens into believing that law is as orderly as resolutions are made to appear.

It is not readily apparent, moreover, why a minimal judicial role necessarily follows from a language-based account of constitutionalism. Such an account makes sense only if Schweber adheres to some notion of courts as countermajoritarian institutions—but the degree of his endorsement of this conventional wisdom is not fully analyzed. At all events, such a position must be grounded in a more robust account of how courts relate to other institutions and what they owe average citizens, rather than derived from an original decision to resort to a common governing language.

A more robust depiction of the judicial function may be more apt. Schweber is surely correct that a general commitment to ensuring a modicum of coherence to the law falls within the judge's job description. Yet judges are not merely defenders of linguistic nationalism. Rather, they are artists of sorts, appropriating from ordinary language and popular modes of talking along with canonical texts to construe the Constitution.[19] They

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CAL. L. REV. 959 (2004).

18. For an evolution of Sunstein's approach, see CASS R. SUNSTEIN, ONE CASE AT A TIME: JUDICIAL MINIMALISM ON THE SUPREME COURT 3–14 (1999); CASS SUNSTEIN, THE PARTIAL CONSTITUTION (1998); Cass R. Sunstein, *Burkean Minimalism*, 105 MICH. L. REV. 353 (2006).

19. *See generally* TSAI, *supra* note 5, at chs. 4–5. Nelson Tebbe & Robert L. Tsai, *Constitutional Borrowing* (working paper on file with author) (turning borrowing from a

are also mediators, endorsing certain public discourses and resisting others, but never fully authorized to or fully capable of exerting total control over the development of governing language. This more vibrant rendering of judicial review can only be detected by seeing what jurists actually do in the name of liberalism, not by taking the liberal's aspirations for the truth of the matter asserted.

The Language of Liberal Constitutionalism is a valuable contribution to the extant literature and a pleasure to read. It deserves to be engaged, and its many provocative points considered. Working through the book's productive interactions with a broad and deep set of texts alone is worth the time. In pursuing a line of inquiry that reframes sovereignty as participation in and management of a civic language, the author asks and begins to answer questions of the first order.

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matter of constitution writing to one of everyday practice, defending it as normatively desirable, and suggesting criteria by which to critique instances of borrowing).