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McCullough's  
Pioneers**

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DiIulio, Jr.:  
**On Marijuana**



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Caldwell:  
**Green Is  
the New Red**

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**Inventing  
Hispanics**

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**Unfair Harvard**

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in China**

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Book Review by Bradley C.S. Watson

## BASED ON A TRUE STORY

*Conservatives and the Constitution: Imagining Constitutional Restoration in the Heyday of American Liberalism*, by Ken I. Kersch.  
Cambridge University Press, 428 pages, \$84.99 (cloth), \$34.99 (paper)



“Yes?”

**A**MERICAN POLITICAL SCIENCE HAS SEEN its share of fads. Scientific naturalism—particularly Darwinian evolution—and complementary concepts such as pragmatism and relativism dominated the discipline in the late 19th century. Sympathetic academics paired these with German idealism’s celebration of the centralized state’s alleged progress toward rationality. Such philosophical constructs gave a new class of “political scientists,” as they were proud to call themselves, the overweening confidence to flee from old institutions and ideas as fast as their theories could take them. First abandoned was the founders’ Constitution and the understanding of human nature on which it was premised.

The American Political Science Association—dedicated to refining and transmitting this progressive ideology—was established in 1903. Like-minded political and social scien-

tists and historians claimed to deconstruct the founders’ self-evident truths and institutional safeguards, revealing them as masks for aristocratic self-interest. Armed with this knowledge, political science could finally address the American public’s practical concerns and material interests. Enlightened experts could craft public policy unchecked by the Madisonian system’s limited and dispersed powers. Because progressive elites would have the people’s best interests in mind, their rule would be “democratic.”

In its quest for ever greater scientific rigor political science had, by mid-century, largely reduced itself to empirical—statistical—methodologies. Overreliance on stats produced research that could generously be described as careerist and trivial. It also muddied the waters of the discipline, which could no longer decide whether to be value-neu-

tral—clarifying where history was going—or normative, using apparatuses borrowed from the natural sciences in service of a progressive social agenda. Much of mainstream political science still suffers from this confusion.

**T**HIS NEW DISPENSATION WAS NOT without its critics. Influenced by the thought of German émigré Leo Strauss, a small group of scholars in the subfield of political philosophy insisted that political science had lost its way. It was nihilistic—denying that we could know anything about the political good simply, or even that there is such a thing. It was therefore either irrelevant—burying the great questions of right and wrong, good and evil, justice and injustice, under a mountain of stupefying and often contradictory data—or dedicated to the pursuit of transient “values,” grounded simply in



what progressives perceived to be required at any particular moment. Political science was also largely unconcerned with the historical events and institutional forms that were once understood to define America.

By the 1980s, scholars who wanted to say substantive things about politics beyond statistics or models, but were unwilling to eschew empirical “science,” began to identify with an approach known as “American political development” (APD). Much of this subfield dedicated itself to tracing in detail—in a value-neutral manner—historical changes in American politics and institutions. APD replaced numerical data with narratives of change. It was the switch in time that created tenure lines (not to mention academic journals). Unlike progressive political science, it was not necessarily hostile to the Constitution, but neither could it fully embrace America or defend it against leftist caricatures. It studiously identified political constructs and compared “stories” about how American politics moved from there to here. It tried to avoid both dry-as-dust empiricism and heart-on-sleeve progressivism—but ended up incorporating a fair amount of each.

**B**OSTON COLLEGE POLITICAL SCIENTIST Ken I. Kersch is a master of APD-speak. His latest copiously researched book, *Conservatives and the Constitution*, corrects some of the defects of American political science even as it exemplifies others.

Kersch offers a detailed account of the individuals, ideas, and institutions that collectively argued for taking the Constitution seriously again. He makes clear that constitutional conservatism cannot be reduced to law-school-centered theories of originalism—largely because conservatives were excluded from the mid-20th-century legal academy. Conservative constitutionalism was forged elsewhere, making it much broader, and riven by more serious and substantive theoretical disagreements. Journalists, economists, political theorists, and theologians spoke freely on constitutional questions outside the conventional constraints of the liberal legal academy. “[P]ostwar conservative constitutional argument,” Kersch writes, “was diverse, multivocal, contested, mutable, and developmental.”

Disentangling conservative constitutional thought from contemporary originalism, and showing the latter to be but one thread in a complex tapestry, is fine as far as it goes. But how far does it go? Kersch claims there was little in the “later, narrowed originalism that was necessarily conservative in any theoretical or ideological sense.” It was instead crassly utilitarian, aimed at “kneecapping” liberal precedent, and being “serviceable” to an “activ-

ist conservative judiciary.” But this assumes the founders’ Constitution is just a tool to get the results conservatives (or liberals) want, rather than—on proper interpretation—an embodiment of eternal verities. Kersch implicitly denies the possibility of proper interpretation.

He cuts the reader no slack, stylistically or substantively. Almost everything appears as a function of the “construction,” “narration,” “story-telling,” and “agenda-setting” that define “identities” and lend meaning to lives, helping political actors discover “a unified self.” This process is inherently relational: the construction of a political self typically involves a positioning of that self vis-à-vis the political other, constructing identity through the cultivation of a sense of membership (belonging) and opposition.” The process is not a means of getting things right, but for “political oppositions [to] wrest control and win power.” Kersch’s thesis almost disappears under the weight of developmental verbiage, but he seems to adopt, *sub silentio*, a classic mid-20th-century definition of political science: the study of power, including its acquisition and uses. The definition is as reductionist as it is tendentious.

**C**ONSERVATIVES AND THE CONSTITUTION provides rich detail about the personalities, organizations, and political alliances that made modern American conservatism. But it emphasizes that they were oriented to crafting stories to suit their interests. Chapters bear titles such as “Stories About Markets,” “Stories About Communism,” “Evangelical and Fundamentalist Christian Stories,” and “Right-Wing Roman Catholic Stories.” The various stories conservatives told about markets tended to insist that the Constitution favors them, thus forging a conservative identity larger than any single policy position. Conservatives also told stories about Communism that “could not help but shape the emotional tenor of all sorts of constitutional stances,” including the conflict of “the faithful v. the Godless.” Fundamentalist Christians told stories about Darwinism’s and progressive modernity’s incompatibility with America’s Christian moral and constitutional order. The arguments of evangelical and fundamentalist Christians “echoed and harmonized with the themes of civilizational and existential struggle emphasized elsewhere on the Right by conservative Catholics, (key) Straussians (the decline of the West), anticommunists, and Austrian economists (the road to serfdom).” Right-wing Catholics told stories about natural law, which helped them “make meaning and meanings.” They chose to “re-narrate the nation’s history—including the history of its Founding, its Constitution” as compatible with Catholicism. By the 1980s, Christians had the audacity to

engage in “elevating a new set of ‘culture war’ issues—abortion, most importantly, but subsequently bioethics and gay rights—to the front lines.” This happened, allegedly, in support of “new constitutional positioning.” Readers might be forgiven for wondering if Kersch understands exactly who elevated these things, and what counts as a new constitutional position.

He credits Straussians with being the conservative movement’s chief constitutional theorists and “ersatz” historians. But he thinks much of their work “hagiographic,” particularly that of “moralists” like Harry V. Jaffa, the main theorist of the Claremont school in its insistence that the Constitution is designed to preserve the equal natural rights of all human beings. Kersch avers that subsequent moralists on the Right condemn chattel slavery—but show a “palpable indifference to the concerns of contemporary African Americans,” seeing them as “largely irrelevant” except as a “philosophical first premise” for the fantastic stories conservatives want to tell about the Constitution.

**K**EN KERSCH NEVER SEES FIT TO REMIND us that the Constitution isn’t just a story. It is, rather, a founding document that sets well-defined metes and bounds to our common life. It rests on a particular, cognizable account of human nature that sees men as politically equal beings, entitled to consent to their government and to exercise the freedoms proper to them, as of natural right, unfettered by arbitrary or unaccountable rulers. This truth never surfaces in his book; it is swallowed by wave after wave of contextualization.

Here’s a story: once upon a time, in a land far, far away from contemporary political science, a group of patriotic men pledged—not just rhetorically but actually—their lives, fortunes, and sacred honor to the cause of republican self-government. They bequeathed us a written Constitution carefully designed to preserve it, by putting some things—in the realms of politics, economics, and culture—beyond the constitutional pale. Nowadays, the fake “living constitution” of progressivism—which can be anything its interpreters want it to be, and so amounts to no constitution at all—vies for supremacy with our actual Constitution. As for political science, it remains a discipline in search of something higher than empiricism and process. It won’t find it in American political development.

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