

# PERIODICALS

*Reviews of articles from periodicals and specialized journals here and abroad*

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## POLITICS & GOVERNMENT

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### *Going Beyond the Constitution*

"Presidential Statesmanship and the Constitution: The Limits of Presidential Studies" by Thomas S. Engeman, in *Review of Politics* (Apr. 1982), Box B, Notre Dame, Ind. 46556.

The secession crisis of 1861 forced Abraham Lincoln to choose whether to seize unconstitutional powers or to stand helpless as the union collapsed. He took the former course, raising troops and monies and suspending *habeas corpus* without congressional approval. But he was concerned by the dilemma: "Is there in all republics this inherent and fatal weakness? Must a government of necessity be too strong for the liberties of its own people, or too weak to maintain its own existence?"

American presidential initiatives of the last 15 years—Lyndon Johnson's use of the 1964 Tonkin Gulf Resolution to broaden U.S. military commitments in Vietnam, Richard Nixon's wiretaps of telephone calls by reporters and White House staffers to trace leaks—have raised anew the question of the need for limits to executive power. Engeman, a Loyola University political scientist, sees presidential prerogative as a dangerous necessity—which is balanced in our Constitution by the power of Congress to impeach.

Few Americans today would fault the actions of Lincoln. He seized on unconstitutional means to preserve the Constitution itself. But the choice is not always so clear. The assumption of unconstitutional powers must be reserved for extraordinary crisis, but what is to stop a President from treating an ordinary problem as extraordinary? Because it is impossible to specify *in advance* the circumstances that would justify extra-constitutional action, the only solution is extreme penalties for abuse. John Locke (1632–1704) believed that the only check on executive power was the willingness of the people to rebel. *The Federalist Papers* of Alexander Hamilton, James Madison, and John Jay propose a more orderly solution—regular popular elections. But, as Engeman notes, "much mischief can be done in a four-year term."

The final constitutional safeguard against the abuse of presidential

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power is impeachment—the mirror image of presidential prerogative. Impeachment, says Engeman, is “the very tool which, abused to the slightest degree, would destroy separation of powers and enthrone legislative supremacy.” Like presidential prerogative, impeachment puts the Constitution itself at risk by sanctioning a usually forbidden concentration of power. But balanced against each other, these two perilous powers secure America’s future as a republic.

### *Whom Does Congress Serve?*

“The Calculus of Representation: A Congressional Perspective” by Thomas Cavanagh, in *Western Political Quarterly* (Mar. 1982), 258 Orson Spenser Hall, University of Utah, Salt Lake City, Utah 84112.

Do members of Congress believe their primary responsibility is to their home district or to the nation as a whole? In January 1977, the U.S. Commission on Administrative Review polled 154 veteran members of the House of Representatives to see where their loyalties lay. Cavanagh, a Brookings Institution political scientist, examines the results.

Forty-seven percent of the Congressmen polled claimed to put the nation first; 25 percent, their district. (The rest said both were equally important.) The more experienced legislators expressed a stronger sense of responsibility to the nation: Of those serving six or more terms, for instance, 54 percent said their first duty was to country, compared to 38 percent of those in their second term. Party affiliation made virtually no difference.

These answers, says Cavanagh, could simply have reflected an “idealized self-image.” But they were largely borne out in more specific questioning. Of those legislators who put their constituents first, 82 percent spent “a great deal of time” in their districts (compared to 54 percent of their nationally oriented colleagues). For the district-oriented, the top priorities in Washington were helping constituents cut government red tape (48 percent versus 25 percent) and winning federal grants and projects for the district (38 percent versus 14 percent). By contrast, 50 percent of the nationally oriented Congressmen spent most of their time working on legislation in committees.

All the lawmakers said they were more likely to heed district opinion on pocketbook matters—highways and public works, military spending in the district, social programs (housing, health, education, welfare). But on foreign and defense policy, abortion, civil rights, and fiscal policy, the Congressmen were more likely to make up their own minds.

Often, several Congressmen noted, they have no choice. Because most issues get little publicity, constituents have no opinion; on many complex matters, they defer to the expert in Washington. Even on issues eliciting strong reactions—e.g., abortion or gun control—lawmakers usually have to decide for themselves, observes Cavanagh, because of the “cacophony of conflicting voices which cancel each other out.”