

5-2017

Benjamin Straumann, *Crisis and Constitutionalism: Roman Political Thought from the Fall of the Republic to the Age of Revolution*. New York: Oxford University Press, 2016. Pp. ix + 414. Cloth (ISBN 978-0-19-995092-8) \$85.00.

Michelle T. Clarke
Dartmouth College

Follow this and additional works at: <https://crossworks.holycross.edu/necj>

Recommended Citation

Clarke, Michelle T. (2017) "Benjamin Straumann, *Crisis and Constitutionalism: Roman Political Thought from the Fall of the Republic to the Age of Revolution*. New York: Oxford University Press, 2016. Pp. ix + 414. Cloth (ISBN 978-0-19-995092-8) \$85.00.," *New England Classical Journal*: Vol. 44 : Iss. 2 , 123-126. Available at: <https://crossworks.holycross.edu/necj/vol44/iss2/8>

This Book Review is brought to you for free and open access by CrossWorks. It has been accepted for inclusion in *New England Classical Journal* by an authorized editor of CrossWorks.

them directly. In her general introduction she notes a renewed interest in Herodian studies (33), referring readers to Esposito's chapter in Blackwell's Companion to Hellenistic Literature (2010). Zanker's entry in the online Oxford Bibliographies (2014) is also an important resource.

Rist's translation, as I hope this review demonstrates, is much more than a translation. From its provocative front cover image of the Capitoline Museum statue of a drunken old woman to the contents within, it is a window into a world of literary antiquity that few modern readers know. My only criticism, and it is not of the author herself, is the book's price: \$120.00 for a one hundred and fifty-two page hardcover translation. This book's potential readership is very wide, but its cost may be prohibitive to the general audience for whom it is intended. It is hoped that the publisher will be able to lower the price substantially for future editions.

NECJ 44.2

David Kutzko
Western Michigan University

Benjamin Straumann,
*Crisis and Constitutionalism: Roman Political Thought
from the Fall of the Republic to the Age of Revolution.*

New York: Oxford University Press, 2016. Pp. ix + 414.
Cloth (ISBN 978-0-19-995092-8) \$85.00.

Straumann's superb new book cuts a bold path. Assembling a wealth of evidence that solidifies but never limits its argumentative reach, *Crisis and Constitutionalism* forges a synthetic portrait of Roman political thought and traces its reverberations across the early modern era. At its center is the idea of a constitution, or a framework of higher-order laws that define and legitimate ordinary legal rules. According to Straumann, constitutionalism was a Roman invention, something that "developed out the crises of the [late] Republic" (18) and unified the otherwise disparate political arguments and initiatives of that era. Even as partisans continued to disagree about the legitimacy of certain legal innovations, Straumann argues, they revealed themselves to possess a shared sense of the kind of argument that had to be made for or against such measures. It was not enough to assess a law in moral or prudential terms, Straumann maintains: the critical test was whether or not it was constitution-

al in the sense of being consistent with a body of entrenched political norms.

On the basis of this apparently simple claim, Straumann launches a further series of arguments. The first has to do with the substance of political disagreement in the late Republic. According to Straumann, Rome was torn apart by competing views about its own constitution—the “crisis” of the late Republic was in fact a constitutional crisis. On one side were those who traced all legal authority to the sovereign power of the Roman people, as shown by passages in Livy and Appian. On the other side were those who traced it primarily to custom (*mos*), although Cicero is shown to have taken the further step of grounding the authority of custom itself in natural law.

Straumann’s fuller argument for reading Cicero’s treatment of natural law as a species of constitutionalism appears later in the book (Chapter 4). But even so, Straumann’s discussion of Roman constitutionalism early on skews heavily toward Cicero’s position, foreshadowing its privileged status in the narrative that follows. The case for understanding Roman ideas of popular sovereignty as expressions of constitutionalism is comparatively brief and theoretically problematic. Political theorists will surely be surprised to find thorny questions about the relationship between popular sovereignty and constitutionalism waved aside with the observation that “even an institutional setup which does not allow for any norms of a higher order than whatever the legislature provides for would seem to rely on at least one higher-order norm: the rule that ‘whatever the legislature provides for, is binding law’” (36). Moreover, Straumann himself reveals that at least some attributions of absolute legislative authority to the popular assembly explicitly traced it back to the ancient laws of Rome’s earliest kings (39–41), effectively subsuming it within a further, unspecified constitutional order—possibly custom and/or natural law.

Moving forward, the book wavers somewhat uneasily between these impulses: on the one hand, loosening the idea of constitutionalism enough to support the claim that “diverging interpretations of the constitution were at the center of the crisis of the late Republic” (18, *emphasis added*), not disagreements about the very existence of a Roman constitution spurred by arguments on behalf of the unlimited power of the assembly; on the other hand, tightening the idea of constitutionalism enough that it can also be said to constitute a distinct intellectual tradition among modern writers, one that does not simply include anyone with a concept of sovereignty. Notably, for example, Straumann does not rest his argument for Bodin’s constitutionalism on his absolutism, i.e. the observation that whatever the sovereign provides for is binding law, but instead his views about natural law and the limits they place on sovereign power. Similarly, one learns that Rousseau and the Jacobins

were not constitutional thinkers, despite their strong arguments on behalf of popular sovereignty, because they characterized the authority of the people as wholly “unconstrained” (329).

In short, it would seem that Straumann can successfully make one of the two big arguments that he presents in this book – but not both. A second, related issue has to do with Straumann’s effort to present “virtue” as a conceptual alternative to constitutionalism in both Roman and post-Roman theorizing about republican politics. According to Straumann, the so-called ‘neo-Roman’ republican tradition that figures so prominently in the work of Quentin Skinner and Philip Pettit is “not . . . part of the Roman constitutional tradition that is my subject in this book, but rather a relic of an Augustinian tradition” (260) in which Rome was celebrated primarily for its virtues. As Straumann goes to explain, Augustine adapted this view of Rome from Sallust and passed it on to Machiavelli, who praised glory-seeking for its ability “to motivate citizens to preserve and expand their state” (270). Machiavelli’s position, so described, is contrasted with a variety of interrelated opinions attributed to Cicero: that virtue should be defined as living in accordance with natural justice; that ordering society in accordance with natural justice is necessary for its stability over time; and that imperial expansion is justifiable only as “the expansion of ‘natural constitutional law’” (276).

It is a shame that Straumann confines the real crescendo of his book—the exile of Machiavelli from a political tradition that he is often thought to epitomize—to a mere four pages. But the fundamental argument seems to be that Machiavelli is not a constitutional thinker because he does not subscribe to a theory of natural law. For Straumann, it is not enough that Machiavelli writes extensively about the entrenched, higher-order norms that guided Roman politics until the late Republic (its “ancient orders” and “ordinary modes,” e.g. I.I–I.7, I.9, I.II, I.I8, I.34–I.35, I.40, 3.I, 3.22, 3.25). The fact that Machiavelli denies the existence of constitutional standards prior to the founding of specific constitutional orders reveals him to be a leader of “the anti-constitutional tradition” (260) instead.

Having offered these brief critiques of *Crisis and Constitutionalism*, let me now be clear about one thing: Straumann has written a brilliant book. Narrating the history of political thought around a few organizing ideas is always a fraught enterprise, susceptible at every turn to charges of imprecision, misinterpretation, and over-generalization—just think of the decades of criticism that have been visited on J. G. A. Pocock’s *Machiavellian Moment*. But these are also the books that have done the most to shape how we think about the past and to energize our debates about it. In *Crisis and Constitutionalism*, Straumann has challenged us to think

much more deeply about constitutional theory and I look forward to discussing his arguments for years to come.

NECJ 44.2

Michelle T. Clarke
Dartmouth College

Jo-Ann Shelton,
Pliny the Younger: Selected Letters.

Mundelein, IL: Bolchazy-Carducci Publishers, Inc., 2016. Pp.
xxx + 264. Paper (ISBN 978-0-86516-840-4) \$29.00

Writing a good student commentary is a more daunting task than one might think. To begin with, it can be difficult for the expert Latinist to understand where his or her students might struggle in the Latin and even when they overcome this difficulty they must then decide how much help is too much or too little. Some seem to eschew helping students at all to pursue their own philological interests, despite the ambit of the publisher or book series. I think in particular here of Andrew Dyck's commentary on Cicero's Catilinarian orations in the Cambridge "Green and Yellow" series: it has been invaluable resource to me in my own research, while proving to be much more technical than even the students of an advanced undergraduate Latin seminar can handle. Other texts have an arrangement of text and aid to the reader that are, to put it mildly, not user-friendly. Such texts require the instructor to explain how to use the book properly before proceeding, or, by separating the commentary from the text itself, they often discourage the student from checking the notes at all.

In her new student commentary covering a total of 30 letters of Pliny the Younger, Jo-Ann Shelton has provided a valuable vade mecum to intermediate Latin students everywhere. More importantly Shelton has confronted the difficulties I outlined above with aplomb. It is a volume with much to offer the student and teacher alike with individual comments perceptively attuned to the needs of the fledgling Latinist, and countless opportunities for the instructor to not just run spot drills of syntactical and grammatical concepts, but to expand the class's perspective out from pure philology to consider questions of Roman social life explored by Pliny.

Shelton begins with an excellent introduction that concisely and cogently sets out Pliny's life and times and his literary output. Important terms about Roman