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## Book Review of The Constitution Besieged, by Howard Gillman

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and ultra-light flying. But the NAA's relationship to the main developments in the air—involving military, commercial, and general aviation—has long been quite minimal and nonconsequential. Robie appears to recognize the marginal historical importance of his organizations after the 1920s and in the second half of his book focuses not on the Aero Club or NAA but rather on the flights or other efforts for which individuals were awarded the Collier Trophy. These, Robie explains, make up “the armature that gives shape and structure” to his narrative.

The book's shape also owes something to the NAA itself, which through a subsidy “made possible” its publication, and to the author's self-confessed “addiction” to flight. These factors propel Robie, especially in the second half of the volume, toward an uncritical, even hagiographic emphasis on “great racing pilots and airplanes,” aviation “milestones,” and the NAA in general. An “afterword” on “the future of the NAA,” taken from a 1989 speech by the organization's president, represents a curious injection of aviation politics into historical scholarship, while the dozen separate appendices, running over a hundred pages, further applaud the NAA.

The antiquarian and booster thrust of this book is unfortunate, for a study of the Aero Club of America and the early NAA could well have enriched our understanding of twentieth-century social and cultural history. But the author's hermetic, insider's perspective appears to have prevented him from contextualizing his story very broadly. Americanists lacking a passion for aviation history will therefore find little of interest in his study.

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*The Constitution Besieged: The Rise and Demise of Lochner Era Police Powers Jurisprudence.* By Howard Gillman. (Durham: Duke University Press, 1993. x, 317 pp. \$34.95, ISBN 0-8223-1283-2.)

Howard Gillman's book *The Constitution Besieged* incorporates much of the historical scholarship of the past quarter century, espe-

cially work on the founding period and on laissez-faire constitutionalism, into a broad, clearly written, and lucidly argued reinterpretation of American constitutional history. The Founders shaped the Constitution, Gillman writes, “to nurture and protect the social relations produced by capitalism by preventing the state from taking sides in the disputes arising among or between competing classes.” Their goal was to ensure that government would act only for the public good and not in the interest of “factions.” As a result, rejection of “class legislation”—attempts either to assist one set of competitors against another or to impose on particular groups special burdens that did not directly protect public health or safety—became the “master principle” of American constitutionalism.

State courts initially elaborated the master principle, and the Supreme Court subsequently made it the foundation of its due process jurisprudence. However, the “rise of industrial capitalism made it more and more difficult for people to conceive of a general welfare that somehow transcended the predicament of particular groups and classes.” The courts, nevertheless, continued to use the master principle to void statutes, and “sociological jurisprudence”—by stressing the need for “facts” to show the connection between reform legislation and public health or safety—only reinforced the legitimacy of the constitutional tradition. Decisions such as *Lochner v. New York* (1905) were “defending the framers' vision.” Eventually, however, fundamental social change and new intellectual critiques undermined faith in the master principle, and in 1937 the Court “jettison[ed] a constitutional tradition that was a century and a half old.”

The most significant feature of Gillman's book is its dual purpose: to embrace the claim that the original American constitutional tradition was one of market-oriented liberalism and, at the same time, to drive three fracturing wedges between that premise and contemporary judicial “conservatism.” First, the book argues that the massive changes wrought by industrial capitalism destroyed the utility, coherence, and fairness of the master principle. Thus, the original tradition is “no longer available as a basis for determining the proper role of the judiciary in American politics.” Second,

the book maintains that, since "*Lochner* era" jurisprudence was faithful to the original master principle, it was constitutionally sound. An activist judiciary, therefore, is both traditional and legitimate, and contemporary conservatives consequently have no basis on which to invoke *Lochner's* alleged wrong-headedness "as a weapon in their struggle against the modern Court's use of fundamental rights as a trump on governmental power." Finally, the book argues that the original tradition, in spite of its market orientation, was neither committed to laissez-faire in theory nor hostile to government regulation in practice. Its overriding purpose was not to prevent governments from acting, but rather to ensure that they acted only for the common welfare. Thus, to the extent that the original tradition can still provide contemporary inspiration or guidance, the book suggests, it does not undermine, but rather supports governmental activism in the public interest.

Professor Gillman has written an important and provocative reinterpretation of American constitutional history that deserves the attention of all students in the field.

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*Wobblies, Pile Butts, and Other Heroes: Laborlore Explorations.* By Archie Green. (Urbana: University of Illinois Press, 1993. xii, 523 pp. \$39.95, ISBN 0-252-01963-6.)

A worker from the Terni steelworks boasted to me once that he could "make a flea eye," that is, that no job was too difficult or delicate for his skill. In Archie Green's *Wobblies, Pile Butts, and Other Heroes*, a chapter discusses the United States equivalent of this attitude: the "Tiffany Touch." "Flea eye" and "Tiffany Touch" are metaphors arising from a rich verbal lore, metaphors of manual skill and cultural pride. Green's book stands at this intersection of workers' material and verbal lore, "navigating between shoals of mechanical secret, union custom, and verbal art" where "job literacy consisted of reading blueprints or handling print-derived templates."

The book's uniqueness derives from this

blend of the written, the oral, and the material, of tradition, ritual, and modernity. The subtitle, "Laborlore Explorations," suggests a forward-looking heuristic approach unbound by academic shackles. The subject, "laborlore," suggests a theoretical construct that is neither the archaic folklore of premodern communities nor a mere variation of mass culture, but rather the crossroads of a myriad heterogeneous sources and processes. Though steeped in it, Green does not romanticize laborlore—a "bubbling cauldron" in which "Macbeth's witches" sometimes stir a "malevolent brew." Yet, it is the vitality, the creativity that prevail. "We name this national cauldron our *melting pot*," says Green, renaming a nationalistic metaphor in terms of the workplace experience, as well as of literary witchery.

Three introductory chapters outline the approach developed in ten case studies, painstaking investigations into what may appear as minor curiosities until Green reveals them to be keys to major political and cultural questions. Through the study of images, words, songs, and stories, Green covers a wide stretch of labor history and investigates how politics, race, gender, and class went into the making of the American working class.

Green's treatment of laborlore as autonomous cultural expression verges occasionally toward essentialism (defining class in internal rather than relational terms, as in E. P. Thompson's approach), and sometimes historical animosities simplify the analysis. There may have been a great deal of opportunism in the Communist appropriation of the Wobbly hero Joe Hill; yet, my experience is that rank-and-file Communists (at least in Italy) often sincerely saw themselves as continuing (rightly or not) the libertarian tradition of anarchist syndicalism. Nicola Sacco and Bartolomeo Vanzetti *became* Communist heroes, too.

In Tony Hillerman's *Sacred Clowns* (1993), a character recalls how Navajo audiences, who could understand what the Indian extras actually said, laughed at and "talked back" to Western movies. Green, in turn, describes how Santa Barbara dockworkers laughed at Clark Gable's "errors in simulating [the] work" of a roustabout. Both are engaged in the "counterhegemonic practice" of "talking back": not enough to reverse hegemony, maybe, but