AFTER *WORDS*

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My favorite moment in John Roberts' 2005 Supreme Court confirmation hearing came when a friendly Senator lobbed the nominee a softball. Roberts knocked it out of the park. I'll return to that fun episode at the end of this Essay, but I first need to do some serious business.

Most important of all, I must offer my sincere thanks. To the five gracious scholars who have in the preceding pages cordially engaged my latest and longest book: *Thanks for your willingness to offer such deep and detailed reactions.*

To the University of Illinois College of Law: *Thanks for sponsoring an in-person symposium on Constitution Day, 2021, a constitutional convention (of sorts) out of which these reaction essays emerged.*

To Jason Mazzone, in particular: *Special thanks for organizing the in-person symposium and then going the extra mile with your dazzling meditations on the book itself. (Your Post Office stuff is particularly cool!)*

To Illinois's Dean, Vikram David Amar: *Thanks for being such a great host for this event (and always a great brother more generally).*

To the University of Minnesota and the editors of *Constitutional Commentary*, especially Jill Hasday and Brian Bix: *Thanks for opening the pages of this journal to enshrine all these words about* The Words.

And finally, Dear Reader: *Thanks for your interest in the preceding reaction essays. Please do keep reading the current essay to see a few of my responses. As a bonus, if you make it to the end, I will explain how the print symposium you are now reading connects to John Roberts' home run in 2005.*

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I. REACTING TO THE REACTIONS

The five preceding essays go off in five strikingly different directions. Some range far beyond the book. A reader who has not yet experienced firsthand *The Words That Made Us* may well wonder, "what exactly is the book about? How could one book prompt such unconnected responses, wandering down such different paths?"

In truth, my tome is about a great many things and each essayist has concentrated on a different part of the elephant. (There are many more parts, besides.) Unsurprisingly, each essayist has identified an aspect of the book that engages something of special interest to that author. Let's consider the respondents in alphabetical order.

GERHARDT

Michael Gerhardt is a special scholar in the world of American constitutional law. I consider him a kindred spirit. Like me, he seeks to unite law with history and political science. Like me, he strives to show that constitutional law outside of courts merits at least as much attention as does constitutional case law. Like me, he writes books aimed not merely at fellow academicians but also, simultaneously, at serious lay readers.[2] (Many law professors by contrast strive only to produce high-quality articles for specialists in their respective academic niches.)

Gerhardt raises a dizzying number of provocative points about my book. One in particular caught my eye, because it is the sort of aperçu that comes naturally to a prolific book-author such as Gerhardt: "A tough thing for any scholar is to know where to start a book. Professor Amar chose 1760."[3]

Act I, scene 1 is indeed a special challenge for every book author. Perhaps the first thing to note about my book is my start date, 1760. Not 1763—the opening year of just about every book on the American Revolution now in print.

I argue that the American Revolution, and thus the American constitutional conversation that it spawned, started

2. *See, e.g.,* MICHAEL J. GERHARDT, THE FORGOTTEN PRESIDENTS: THEIR UNTOLD CONSTITUTIONAL LEGACY (2013); MICHAEL J. GERHARDT, THE FEDERAL IMPEACHMENT PROCESS: A CONSTITUTIONAL AND HISTORICAL ANALYSIS (3d ed. 2019); MICHAEL J. GERHARDT, LINCOLN'S MENTORS: THE EDUCATION OF A LEADER (2021).

3. Michael J. Gerhardt, *Amar's* Words That Made Us, 37 CONST. COMM. 1, 6 (2022).

with imperial geopolitics—with the fall of French Montreal to the British in 1760, even before the 1763 Treaty of Paris and ensuing 1764 Sugar Act and 1765 Stamp Act. Ultimately, Americans revolted because they could. This was not a sufficient condition for revolution, but it was a necessary one.

After the fall of Montreal, colonists began to imagine life without the British shield, and it did not take long after Montreal's fall for this imagination to reveal itself. Even before the British started seriously misbehaving—indeed, even before the Treaty of Paris formally confirmed the new facts on the ground in Montreal—some Americans (at least in Boston, where it all began) were beginning to itch and agitate. True, the Brits were negligent and inattentive. But they were not tyrannical—not yet. On the law, British royal officialdom in provincial Massachusetts, led by proto-loyalists such as Thomas Hutchinson, was actually on solid ground in *Paxton's Case*, a fascinating 1761 lawsuit involving writs of assistance. But that hardly mattered to various proto-revolutionaries involved in the case, including James Otis and John Adams.

No other American scholar nowadays begins the story of the American Revolution this way or lavishes detailed attention upon *Paxton's Case*. In fact, in recent decades almost no general textbook or trade book about the Revolution—almost no broad-gauged historian of the Revolution—has offered more than a fleeting mention of this 1761 writs-of-assistance case. (The Supreme Court has routinely mentioned the case, but has bungled the technicalities and never come close to seeing what the episode was *really* all about.) Despite all this, I chose to begin my movie—act I, scene 1—with the *first time* "Harry met Sally," so to speak. The bad blood between Otis and Adams on the one side and Hutchinson on the other began in *Paxton's Case*, and proved quite significant over the next fifteen years.

MAZZONE

Jason Mazzone is a sparkling constitutional historian with a particular interest in American constitutional culture and its roots in American free speech and American federalism. He is a beloved former student of mine and a regular co-author of one of my regular co-authors, the aforementioned Vikram David Amar. If any reader has not yet perused the preceding essays, Mazzone's is the best place to start, because it places my book in the largest

context and directly engages more of its central themes—especially the *Words* and the *Constitutional Conversation* signified by the book's title and subtitle.

Mazzone rightly highlights the enormous emphasis I place on early American newspapers and newspapermen. He quotes one of my favorite lines in the book: "all the great founding fathers were early sires and children of America's emerging newspaper culture" (p. 304).[4]

To be more specific: Benjamin Franklin was a self-made printer and popular writer who amassed a fortune before age forty by creating what we would call today a media empire—a string of affiliated print shops and paper mills across the continent. Alexander Hamilton published his first notable newspaper piece, a compelling description of a tropical hurricane, while a mere lad in the West Indies. This was his first big break in life—the vivid piece of prose brought him to the attention of patrons who financed his emigration to the mainland. Thereafter, he went on to become a newspaperman extraordinaire, as exemplified by his brilliant performance as Publius and in scores of other essays before and after, published under a dizzying array of pen names. In his mid-thirties, James Madison teamed up with Hamilton in newspapers, and in his early forties Madison turned against Hamilton in newspapers. In one six-month period in 1791–92, he produced some fifteen short pseudonymous essays for a single newspaper, Philip Freneau's *National Gazette*. Before his debut on the national stage, Madison had brilliantly championed religious freedom in his home state via a punchy and anonymous printed circular, his acclaimed "Memorial and Remonstrance." After returning from France, Thomas Jefferson quietly created a partisan newspaper network of his own, partly financed with other people's money—a masterstroke. Long before that, in his early thirties Jefferson had published an important 1774 pamphlet articulating key limits on Parliament's power. Writing as "Novanglus," Adams published similar newspaper pieces making similar arguments at about the same time, building on prior newspaper submissions stretching back to the mid-1760s, when Adams was still in his late twenties. To sum up: Five of the big six Founders were newspaper scribblers, early and often.

4. Quoted in Jason Mazzone, *Constitutional Small Talk*, 37 CONST. COMM. 13, 22 (2022).

The sixth, George Washington, might at first seem the odd man out, because he did not write nearly so much for public consumption about the great constitutional issues of his era after the onset of the imperial crisis in the early 1760s. On closer inspection, Washington was in fact as much a newspaperman as the others—probably a more prodigious newspaper reader, though doubtless a less prolific newspaper writer. Most dramatically, beginning with press coverage of his courageous backcountry military exploits in the mid-1750s—when he himself was in his early twenties—George Washington was the darling of America's newspapers up and down the continent.

One of Mazzone's especially brilliant points is his forceful reminder that letters and the postal system loomed large alongside American newspapers in early America's constitutional culture.

Franklin was of course a postmaster. His Rubicon moment, when he irreversibly joined the Patriot Cause, came in a 1773–74 controversy involving possibly purloined letters (the Hutchinson Letters Affair). Circular letters and the intercolonial Committees on Correspondence formed much of the infrastructural spine of the Patriot Cause. The seeds of America's Bill of Rights were planted in Jefferson's epistolary exchanges with Madison in 1787–88. Jefferson's later secret letters coordinating resistance to the Sedition Act helped ensure that free expression would in fact prevail in early America. The federal postal system was a key component of Jackson's patronage network ("the Spoils System"). And one of the biggest constitutional issues of the Jackson era involved whether abolitionists could use the mail. All these postal and epistolary tales and many more are narrated in my book, and Mazzone's essay brilliantly carries these postal themes higher and further than I was able to do.

PFANDER

Jim Pfander is one of America's most distinguished and most prolific—and nicest, in every sense of the word—scholars of the federal judiciary. Unsurprisingly, his reaction essay zeroes in on some nice, if extremely intricate, questions involving the jurisdiction of federal courts.

He playfully mocks his own instinct to "go straight for the

capillary."[5] But he is absolutely right to obsess about the tiny details, the exquisitely technical parts of the Constitution.

I too am a detail guy, a technician. But I often try to connect the Constitution's seeming details to the document's much bigger aims and themes. In my lingo, I strive to blend "the particular" and "the panoramic." For example, I argue that the Constitution's ensemble of minimum-age rules for government service—twenty-five years for House members, thirty for Senators, and thirty-five for presidents—aimed to blunt hereditary dynasties by obliging famous sons of famous fathers to have track records of their own before being allowed to hold powerful federal posts.

Large themes also hide in another small clause featuring another number. No army appropriation may last for more than two years. But this rule does not apply to navies. Why not? Because, like the entire constitutional project of which it was a part, this rule had deep roots in military and geostrategic concerns. The Founders understood that standing armies threatened liberty more than did standing navies (which could cow coastal populations but could not so easily imperil interior inhabitants). Britain was famously free because it was an island nation defended by a navy. The less free and less democratic land powers of Europe shared land borders with each other and thus required large standing armies to defend these borders. Alas, these large standing armies threatened domestic liberty. Founding-era America thus needed to emulate Britain by unifying the American landmass via a more perfect union of thirteen states, much as Britain had unified its landmass eighty years earlier via a "perfect union" of Scotland and England. Once in this new American union, no state could unilaterally secede, for such a secession might well be followed by an alliance with a murderous European monarch who might then send a large standing army to the New World that could threaten the freedom—indeed, the very existence!—of bordering states.

I thus believe that in the smallest of technical clauses (here, a mandatory two-year sunset for army funding) we can glimpse intriguing implications for the most enormous of constitutional issues—in this case, the fateful question whether any state may

5. James E. Pfander, *The Words that Made Original Jurisdiction,* 37 CONST. COMM. 27, 28 (2022).

unilaterally leave the union post-ratification. There are many—*many*—other legally and historically compelling reasons why South Carolina was completely wrong, constitutionally, in 1860–61, as I explain in great detail in *The Words That Made Us*. Indeed, I immodestly believe that no other book ever written has so conclusively demolished the truly ridiculous raft of constitutional arguments on behalf of secessionism, which the Constitution, in yet another seemingly technical clause, plainly condemns as "Treason."

The Constitution's often overlooked age and army-appropriation rules are not the only small patches that pack big punches. *The Words* shows that the seemingly technical Founding-era debates about which taxes were "direct" taxes (and thus required precise interstate apportionment) and which taxes were not (and thus did not) in fact implicated young America's deepest and most dangerous political fault line: slavery.

Consider also the Constitution's structurally implicit rule that federal courts, unlike state courts, cannot fashion a common law of crimes. As with the Constitution's age rules, army appropriation rules, and direct-tax rules, this topic goes entirely unmentioned in most introductory courses in American constitutional law, and virtually unnoticed by most mainstream constitutional scholars. But here too large issues hide in small technicalities. The rule banning a federal common law of crimes, I argue, embodies big ideas of liberty, federalism, separation of powers, and interpretive departmentalism.

How does all this relate to Pfander's topic in this symposium—the question of Supreme Court original jurisdiction?

In previous work,[6] I have shown that Article III features a two-tiered jurisdictional menu. Federal courts must be the last word on "all cases" in the first tier (all cases involving federal rights in law, equity, and admiralty, and all cases affecting ambassadors, ministers, and consuls), but not in a variety of second-tier controversies, strictly defined by party identity (paradigmatically, lawsuits based purely on state law and

6. *See, e.g.*, Akhil Reed Amar, *A Neo-Federalist View of Article III: Separating the Two Tiers of Federal Jurisdiction*, 65 B.U. L. REV. 205 (1985); Akhil Reed Amar, *The Two-Tiered Structure of the Judiciary Act of 1789*, 138 U. PA. L. REV. 1499 (1990); AKHIL REED AMAR, AMERICA'S CONSTITUTION: A BIOGRAPHY 225–30, 576–80 (2005).

involving diverse citizens and/or diverse states). In my new book, I provide exciting additional evidence for the correctness of this two-tiered model, a model that has dramatic ramifications for one of the largest questions of American constitutional law—whether and to what extent Congress can strip jurisdiction from all federal courts, and thus leave the last judicial word to state tribunals.

As I explain in Chapter 11, a two-tiered account of Article III was at the heart of Joseph Story's greatest judicial opinion (his landmark exposition in *Martin v. Hunter's Lessee*[7]) and his greatest scholarly achievement (his three-volume *Commentaries on the Constitution*). And as I explain in Chapter 12, this very same two-tiered account was also at the heart of the most important Congressional defense of the federal judiciary in Jacksonian America —a landmark 1831 report authored by a future president, the son of one chief justice, and the father of another chief justice.

Thus, I argue that Joseph Story was right about the deep structure of Article III and the enormous significance of the selective use of the seemingly capillary word "all" (a word used not once, not twice, but three times in the main jurisdictional menu and then pointedly omitted in the other parts of the menu). And John Marshall was right to repeatedly embrace Story's two-tiered approach. And the First Congress was right to craft the Judiciary Act of 1789 in striking harmony with the two-tiered reading. And later Congressional leaders were right to highlight and embrace the two-tiered approach.

But if all this is so, then some of Marshall's dicta about the Supreme Court's original jurisdiction—Pfander's main focus in his own, rather different, capillary examination—cannot be treated as gospel. At times, Marshall was incomplete or incorrect. In *Marbury*, he was in a tight spot politically and squirmed out by misconstruing the Judiciary Act of 1789's provisions regarding original jurisdiction. *Marbury* also said some rather clunky things about the Constitution's original jurisdiction language, things that Marshall found himself obliged to walk back in later cases.

The panoramic point is this: There are two tiers of Article III jurisdiction—one mandatory, as emphasized by the selectively used word "all," where federal courts must have the last word; and one permissive, where state courts may be given the last say if

7. 14 U.S. (1 Wheat.) 304 (1816).

Congress so prefers. But this perforce means that Congress may choose to allow state courts to be the last word even in some lawsuits that fall in the original jurisdiction of the Supreme Court—namely, state-diversity suits of various sorts.

And this in turn raises a nice technical question: Why would such lawsuits be so important that they may (if Congress wants) be heard in the Court's original jurisdiction, but also so unimportant that they may (if Congress wants) be left instead to be decided entirely by state courts? In a word: venue. If a pure diversity lawsuit arises between State *A* and State *B*—that is a lawsuit turning solely on state law and involving no substantive federal law issue whatsoever—then such a lawsuit can indeed be left for initial and final resolution in some state court. If, however, Congress wants the federal judiciary to try the lawsuit, Congress should not site the federal trial in either of the squabbling states. Rather the federal trial should occur in a geographically impartial venue—in a Supreme Court sitting in the nation's capital outside the formal boundaries of any particular state. Presumably, the Supreme Court would meet near the Senate chamber, where each state would have members who could monitor the Supreme Court trial, and perhaps even participate in it as leading lawyers.

Marshall in *Marbury* was right that Congress cannot properly add to the Court's constitutionally specified original jurisdiction, but he failed to offer the best panoramic reasons why. Here are my own wide-angled answers to the key technical questions. Q: Why can *a lower federal court* be allowed to try all sorts of cases that *the Supreme Court* cannot? A: Because the lower federal court would sit in the hinterlands, with a local jury and close to local witnesses and litigants. Q: Why can the Supreme Court hear *on appeal* all sorts of cases it cannot hear *at trial*? A: Because on appeal, the Court would decide only the law; the facts would typically already have been found by a local jury close to the action. Q: Why were *Supreme Court justices* riding circuit allowed to try cases that could not be tried in the *Supreme Court itself* under Article III? A: Because, formally, these circuit trials were not Supreme Court cases as such, and they thus satisfied the strict letter of Article III, and because, functionally, these cases in fact featured proper local juries, and they thus also satisfied the broader spirit of Article III.

As I explain (and as Mazzone nicely amplifies[8]), a key role of the early justices was to fan out and spend time in cities and counties across the land, listening to local folk. The high and haughty British ministers of the 1760s and 1770s had shown little interest in conversing with their far-flung American cousins. This failure of the center to hear the periphery had destroyed the empire. The Judiciary Act of 1789 aimed to ensure that the America's Privy-Council substitute would not make the same mistake.

On my view, the issue of original jurisdiction and the closely related issue of circuit riding thus implicated some of the deepest issues in early America—the geographic challenge confronting a distant central government aiming to govern a far-flung periphery. The British, thanks in part to their centralized vice-admiralty courts and other local-jury-evading measures, lost the love and loyalty of Americans in the 1760s and 1770s. The Constitution's and the First Judiciary Act's rules about federal trials in the 1780s were carefully designed to avoid the jurisdictional snares that had brought down the British King and the British Parliament.

In sum, I love Pfander's instinct for the capillaries, but my own exposition of closely related issues aims to be both capillary and jugular.

PROCTOR

Haley Proctor is by far the youngest of today's five respondents and many readers may not yet be familiar were her growing body of outstanding scholarship. They soon will be; she is one of the brightest stars of the next generation.

Proctor correctly identifies my general interpretive and expositional approach. As previously explained, I aim to blend the panoramic with the particular, helping readers glimpse the constitutional cosmos even while focusing microscopically on a constitutional grain of sand.

The grain that Proctor herself chooses for analysis in her clever essay is the Full Faith and Credit Clause. In truth, she already knows far more about this clause than do I, so the less I say here about the details of this clause, the better. But I would

8. *See* Mazzone, *supra* note 4, 37 CONST. COMM. 13, 20–21 (2022).

like to think that the interpretive methods that Proctor employs may owe a wee bit to my tutelage way back when she was my star student at Yale. In keeping with my mantra of constitutional holism—blending the particular and the panoramic—Proctor rightly emphasizes that the technical issues implicated by the clause must be considered with attention to the Constitution's broadest themes of democracy and federalism.

Like Pfander, Proctor brings John Marshall and the Marshall Court onto center stage, as do I in several of my book's later chapters. But we must admit, as do I and as does Proctor—and as does Pfander too, I think—that, on occasion Marshall nodded. For example, nowhere did Marshall clearly explain, as I have tried to do in the preceding section, how the Constitution's original-jurisdiction rules connect up to some of the document's largest themes: geography, venue impartiality, juries, and the basic two-tiered structure of the Article III jurisdictional menu.

Like Gerhardt, Proctor pays particular attention to my book's opening scene. Gerhardt wonders why I began the book with a technical 1761 legal controversy in Boston. As previously explained, I had several reasons for starting as I did. Proctor perceptively notes a happy side effect of my choice: The writs of assistance controversy, she suggests, should remind us all of the special problems that existed in a world without official court reporters and with only spotty court records.

SCHWARTZ

David S. Schwartz has written a thoughtful book and provocative articles on the scope of congressional power.[9] In this volume, he returns to this issue and does so with particular attention to the Preamble and the six main constitutional purposes it identifies. He asks whether Congress has direct power to legislate for these six purposes, even if such legislation fails to fit within the specific power enumerations of Article I. Did the Preamble in effect give Congress plenary legislative power, subject only to individual-rights and separation-of-powers

9. *See, e.g.*, DAVID S. SCHWARTZ, THE SPIRIT OF THE CONSTITUTION: JOHN MARSHALL AND THE 200-YEAR ODYSSEY OF *MCCULLOCH V. MARYLAND* 47 (2019); David S. Schwartz, *A Question Perpetually Arising: Implied Powers, Capable Federalism, and the Limits of Enumerationism*, 59 ARIZ. L. REV. 573, 575, 581–82 (2017); David S. Schwartz, McCulloch v. Maryland *and the Incoherence of Enumerationism*, 19 GEO. J. L. & PUB. POL'Y 25, 52–56 (2021).

trumps, and perhaps a few limited immunities allowing state governments to manage their own officials? Were the Article I enumerations merely illustrative rather than exclusive (or nearly so)? For example, could Congress in 1790 have properly regulated all marriages and land sales in the several states on the theory that federal marriage and land laws would "establish Justice" and/or "insure domestic Tranquility" and/or "promote the general Welfare" and/or "secure the Blessings of Liberty"?

Before offering my own brief answer to Schwartz's provocative question, I should highlight several other aspects of the Preamble that loom particularly large in my story. In *The Words That Made Us*, as in my 2005 prequel book, *America's Constitution: A Biography*,[10] I emphasize the Preamble's *performative* aspect. The Preamble describes a deed, a do-ing, an ordainment and establishment, a constitut-ing. Put aside for a moment *why* "We the People" are doing something—put aside, that is, the six purposive clauses that Schwartz highlights. Focus instead on *who* is doing *what* in the Preamble's subject, verb, and object: "We, the People of the United States, . . . do ordain and establish this Constitution . . . ."

Here, the People are actually doing something. We are ordaining and establishing. We are voting to ratify a document ("this Constitution"). We are doing so continentally ("the United States"). We are doing so democratically ("the People")—in especially inclusive conventions up and down the continent, in which more persons are eligible to vote and/or to be voted for than in any previous episode in the history of the world. (In eight of the thirteen states, ordinary property qualifications for ordinary elections are being lowered or waived in this special ratification process; nowhere are they being raised.) And we are doing this via an epic continental conversation—talking about the plan at great length before finally saying, yes, We do.

Whether or not the Preamble's purpose clauses gave Congress direct legislative power post-ratification, they surely did give ordinary voters, pre-ratification, a clear sense of why they should vote yes. They should vote yes in order to create "a more perfect Union" on the model of the perfect union of Scotland and England, a union that would provide for "the common Defence" (by creating a geostrategically defensible island nation of sorts),

10. AKHIL REED AMAR, AMERICA'S CONSTITUTION: A BIOGRAPHY (2005).

which would in turn "secure the Blessings of Liberty" by shielding Americans from foreign armies while keeping domestic armies in check. In short, here too, the particular meets the panoramic. The big themes of the deed and the document as a whole can be seen in the opening sentence's precise language, word by word and as an ensemble.

And this is precisely how Hamilton, Washington, and Marshall understood the document and implemented it post-ratification. As I tell the story, these preeminent Federalists did not say that the Preamble itself empowered Congress to do anything Congressmen plausibly viewed as, say, advancing "liberty" or "justice." After all, abolishing slavery in the several states purely for reasons of natural right would quite literally promote "liberty" and "justice," if these words were read at face value. But almost no one in 1787–88, or in the years immediately thereafter, thought that Congress had such abolition power as a general matter. (Emancipating various slaves might in some circumstances be a necessary war measure; but abolishing slavery everywhere and forever was a rather different thing than freeing some slaves in some places for now.)

Washington, Hamilton, and Marshall did view the Preamble's purposes as a prism through which to read individual congressional empowerments in Article I. In this tradition, individual enumerated powers should be read especially generously and functionally when Congress sought to use these enumerations in the service of the Constitution's main purposes, as understood and embraced by the ratifying American people in 1787–88. Indeed, as I explain in some detail in *The Words*, the Preamble's ultra-high-profile purpose of *common defense* was Hamilton's, Washington's and Marshall's key background principle for construing various enumerated powers in Article I broadly, so as to support the creation of a federal bank in 1791. Madison initially—and stupidly—opposed Hamilton and Washington, because Madison in the 1790s did not understand how a central bank was indeed an invaluable military asset. Later, as President, Madison reversed course in the midst of the War of 1812—a Second War of American Independence which showed that Hamilton and Washington had been right all along.

II. ROBERTS

OK, back to Roberts.

Ostensibly, in mid-September 2005, John Roberts was

directly and substantively answering direct and substantive questions posed by the Senators about his understanding of American law, especially American constitutional law, in the hopes of being confirmed to sit in the center chair of America's highest court—a chair that once belonged to John Marshall. It was a challenging episode for Roberts, as he fielded questions at every level from a wide range of questioners. It was a challenge not altogether different from the challenge I confront in this response essay, as I try to field some of the many important questions raised in the preceding essays, questions posed by a wide range of questioners, each pursuing a rather different line of thought.

The softball question came near the end of the Roberts hearing. Lindsey Graham asked, "What would you like history to say about you when it is all said and done?"

Roberts' answer was brilliant—supremely honest and supremely self-aware: "I'd like them to start by saying [I] was confirmed."[11]

In the preceding pages, I have tried offer some direct and substantive answers to a welter of direct and substantive questions. But like John Roberts, I am also trying to operate on another level. I'm not merely trying to answer the preceding essays, just as John Roberts was not merely trying to answer the Senators' substantive questions.

Just as Roberts wanted *to be confirmed*, I want you, Dear Reader, to *read the book*. You don't have to buy it. Thanks in part to Franklin and America's extraordinarily conversational culture, there are circulating libraries everywhere. But I do hope, Dear Reader, that you will pick it up and give it a chance.

11. Confirmation Hearing on the Nomination of John G. Roberts, Jr. to be Chief Justice of the United States: Hearing on the Nomination Before S. Comm. on the Judiciary, 109th Cong. 256, (2005) https://www.govinfo.gov/content/pkg/GPO-CHRG-ROBERTS/pdf/GPO-CHRG-ROBERTS.pdf.