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**Hybrid Constitutions: Challenging Legacies of Law, Privilege, and Culture in Colonial America.** By Vicki Hsueh. Durham, NC: Duke University Press, 2010. 208 pages. \$79.95 cloth; \$22.95 paper.

*Hybrid Constitutions* is a comparative study of three early colonial constitutions in Maryland, Carolina, and Pennsylvania. It is a balanced, well-written account of seventeenth-century efforts to centralize control over Indian trade as a means of establishing a permanent political presence in the colonies. It is an important work that covers the early English experiments with utilizing patronage, capitalism, and other tools in order to impose English-law ways on the territories that would become Maryland, Pennsylvania, and Carolina.

Vicki Hsueh's major contribution to the literature on colonial legal history is that English efforts were haphazard and inefficient, as opposed to measured and thoughtful. The three stories told in this work involve three different colonies—largely contemporaneous—and the legal authority vested in three individuals for the purpose of opening up the Indian lands for English economic exploitation.

The charters establishing the Maryland and Carolina colonies are Hsueh's best examples of what she refers to as "proprietary constitutionalism." Both charters established their proprietors of each colony—Cecilius Calvert and Lord Ashley—as a "quasiverseign" in each territory. Calvert and Ashley quickly moved to promulgate a constitution or at least a set of documents that could charitably be called a constitution, in the case of Maryland. The English charters did not make either proprietor a true monarch in each land (with power that would presumably rival a jealous English monarch's authority in that land), but sufficiently authorized them to exercise broad discretion on how best to deal with the Indians. The maxim goes that it was always better (cheaper and more efficient) to trade with Indians than fight them for their resources. Maryland and Carolina (and, as we will see, Pennsylvania) developed the law of their colonies with an eye toward managing trade with the Indians.

Maryland's constitution(s) showed, according to Hsueh, a reflection not of the power of the proprietors but of the limits of their power as ordained by King Charles I in the 1632 charter. Yet, for Hsueh, Calvert used his power to establish himself as a "virtual king" in Maryland. The charter vested enormous discretion in Calvert to engage in trading with Indians as a means of diplomacy. After the creation of the Maryland Assembly, however, Calvert's efforts to control and centralize trade with the Indians won him no friends, and by 1638, the colonists openly resented their inability to trade with Indians independently. This resentment led to the fall of the proprietary government within decades of its establishment.

The constitution of Carolina was much more formalized than that of Maryland and arrived with much of the baggage of an overworked and overwrought legal document. The Fundamental Constitutions of Carolina established a large bureaucracy full of appointed political positions that could rarely be filled, for example, and simply did not reflect the realities on the ground. What the constitution did establish was a government that combined liberal humanism with autocratic feudalism, fueled by the need for lower-ranked people to engage in trade relations with Indians and by the greed for resources from the top of the political hierarchy. Hsueh points out that John Locke served in the government created by the Fundamental Constitutions, and his diaries reveal how well the local Indians engaged in large-scale agriculture and effectively fed the Carolina colonists. Locke later would be well-known for asserting that Indian people were mere hunters who did not engage in the necessary agricultural production to establish an expectation of private-property ownership.

Hsueh's account hints at but does not develop the outcome of the collapse of the structure of proprietary constitutionalism. Like any loss in the rule of law (such as it was in Maryland and Carolina), the results for the Indian people in those regions were terrible at best. As Lisa Ford's *Settler Sovereignty: Jurisdiction and Indigenous People in America and Australia, 1788–1836* (2010) demonstrates, what tended to replace proprietary constitutionalism was the use of the rule of law to declare Indian people and property rights virtually illegal. What resources that couldn't be acquired from Indian people, Ford shows (and Hsueh implies), through trade under unconscionable "proprietary" conditions could be taken through legalized theft and confiscation.

Hsueh's most interesting work is the chapter about William Penn's colony, Pennsylvania. Unlike the proprietors of Maryland and Carolina, Penn's charter was unlike the previous charters, though it had the same proprietary purpose. Instead of the "quasisovereignty" offered to the Carolina proprietors and the "discretion" offered to the Maryland proprietors, Penn's charter undercut his authority. As a result, Penn used treaty making with regional Indian groups to expand and consolidate his power. A typical treaty from the period, such as the ones executed with the Lenni Lenape and the Susquehannock tribes, helped Penn establish boundaries to Indian country, which in turn established vested title to the non-Indian lands in him and his government. Penn's strategy of entering into treaties would become the standard for dealing in Indian affairs, even as the commercial aspects of colonial-Indian affairs continued to hold sway. Penn used his relations with Indian tribes to increase his own political power and control over resources, much like the US government would do centuries later.

Hsueh's theory of proprietary constitutionalism as the dominant mode of colonial-tribal relations is useful. More than a century later, the Framers of the American Constitution would institute in Article III, Section 8, Clause 3 of the Constitution the so-called Indian Commerce Clause. Coupled with the Treaty Power, the Indian Commerce Clause is a logical descendant of proprietary constitutionalism. Thomas Jefferson, though not the author of the Indian Commerce Clause (that title must go to James Madison), long argued and practiced the policy of trading with Indians in order to civilize them and turn them into functional assets for the nascent American Republic. In many ways, American Indian tribes remain the creatures, at least in federal-state-tribal relations, of proprietary constitutionalism, with so many state legislatures demanding Indian tribes "pay their fair share" of gaming proceeds and taxes.

Overall, Hsueh's work is an excellent contribution to the understanding of the origins of centralized governmental control over Indian affairs for purposes of generating economic activity and wealth for the proprietors and for the cementing of the legitimacy of the governmental authority of English (and European, generally) patrons over the colonial resources and colonists. It must always be remembered that the early years of the colonial presence in America were anarchic—full of fear of Indian residents, ethnocentrism, and incompetence. Hsueh shows how the English desire for Indian resources and for a form of hierarchy-based law and order forced the creation of legal and political regimes that served as models for colonial-tribal relations for centuries and suffered from the same limitations, inefficiencies, and brutalities of that system.

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**The Indian History of an American Institution: Native Americans and Dartmouth.** By Colin G. Calloway. Hanover, NH and London: University Press of New England, 2010. 280 pages. \$24.95 paper.

This book describes the historic legacy of mixed perceptions regarding the honorable and not so honorable education that Native students received as a result of attending Dartmouth and its preparatory schools (xix). Calloway describes Dartmouth's troubled history and provides numerous stories rarely described elsewhere of the students who expressed affection, bitterness, anger, and nostalgia as they were taught "civilization" through Christianity. For nearly two and a half centuries, Natives learned to read, write, and study agriculture as well as to be subordinate, confess their sins, and then express their gratitude for the education that they received (xix–xx). Schooling began at a time when