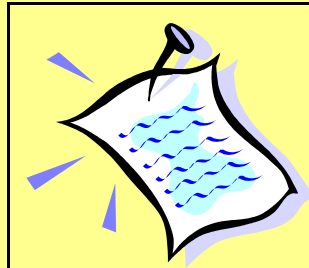




# LARRY KRAMER

*RICHARD E. LANG PROFESSOR OF LAW AND DEAN,  
STANFORD UNIVERSITY LAW SCHOOL*

## GALA



September 1, 2005  
4-6pm  
Faculty Lounge  
336 Boalt Hall North

## The People Themselves: Popular Constitutionalism and Judicial Review

To: Workshop Participants  
Fr: Larry D. Kramer  
Re: The People Themselves

I have circulated excerpts from the book. These consist of:

(1) Pages 29-34. This is short section from the end of chapter one. Entitled "Popular Constitutionalism, circa 1765," it describes the basic theory of popular constitutionalism as it had evolved by the time of the American Revolution.

(2) Pages 35-72. This is chapter two, which describes the emergence and contours of the original idea of judicial review that emerged in the 1780s.

(3) Pages 105-127. These two sections from chapter four describe the theory of popular constitutionalism as it had come to be understood by 1800 and put Marbury v. Madison into context in light of this theory.

(4) Pages 128-144. This is the short chapter five, which explores the emergence of the rival doctrine of judicial supremacy and describes its political rejection at the end of the Federalist era.

My talk will concentrate on the theory of popular constitutionalism: its structure and how it works. Our conversation can then roam freely over this territory and over the applicability/workability of such a theory today. I am happy to talk about the history as well, but while the excerpts read as historical narrative, the pages I selected are meant to highlight the underlying intellectual structure of an idea.

### NOTE

DISCUSSION WILL PROCEED WITHOUT A PRESENTATION OF THE PAPER BY THE AUTHOR. PAPERS ARE DISTRIBUTED TO THOSE ON OUR MAILING LIST OR ELECTRONICALLY WHEN AVAILABLE AT THE GALA WEBSITE: <[WWW.LAW.BERKELEY.EDU/CENTERS/KADISH/](http://WWW.LAW.BERKELEY.EDU/CENTERS/KADISH/)>. OTHERS MAY OBTAIN COPIES FROM MS. AMATULLAH ALAJI-SABRIE AT 510.642.3627 OR [KADISHCENTER@LAW.BERKELEY.EDU](mailto:KADISHCENTER@LAW.BERKELEY.EDU).