

The Law

Presidential Studies, Behavioralism, and Public Law

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Since the rise of the behavioralist revolution in the 1950s and 1960s the political science discipline has struggled to find agreement on a uniform vision of the study of politics, particularly as it relates to the employment of methods. This article addresses behavioralism's influence on the decline of public law analysis in the field of presidential studies. Specifically, it focuses on the work of presidential scholars Edward Corwin and Richard Neustadt in highlighting the changes to the study of the presidency. Attention is also paid to the decline of normative types of public law analysis. The article concludes with a call for greater acceptance, and practice, of public law analysis.

Since the founding of the political science discipline in the early twentieth century there has routinely been calls for change. One of the latest examples occurred at the dawn of the twentieth-first century when an anonymous scholar sent the “Perestroika” e-mail to the editors of the *American Political Science Review* asking for a number of reforms to the American Political Science Association (APSA). Among them were a call for greater diversity of membership on the APSA governing committees and its journals along with a need for the discipline to become more accepting of a greater number of methodologies (PS 2000).

The Perestroika movement largely touched on old discipline identity struggles. For example, the postbehavioral era emerged in the mid to late 1960s as some of the leading behavioralists began to question their own way of studying political science. The 1969 APSA presidential address by David Easton directly confronted the behavioral orthodoxy: “Only on the assumption that behavioral political science has said the last word about

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what makes for adequate research and an appropriate discipline can we automatically read out of court any proposals for change” (Easton 1969a, 1053). In particular, Easton took on the inability of behavioralism to predict some of the great changes that had occurred through the 1960s and he pleaded for “more relevant research” that will “improve political life” (Easton 1969a, 1053).

Appearing in between those two “movements” Gabriel Almond, a well-known behavioral scholar, published the classic article “Separate Tables” in which he noted that there was an “uneasiness in the political science profession” (1988, 829). He suggested that political scientists might be eating in the same dining room but were now at different tables with the most significant separation between the “hard” (quantitative) and “soft” (descriptive) scholars (Almond 1988, 829). Almond explained that the “mood and reputation” of the political science discipline was “heavily influenced by these extreme views” (1988, 830).

One of the results of the behavioralist revolution that has received little attention is the decline in public law analysis within political science. As far back as the 1920s—a period when Charles Merriam delivered his APSA presidential address titled, “Progress in Political Research”—there have been calls to move away from public law analysis (Merriam 1926). Although the term “public law” is not as well known today, in its more traditional form it is a mode of inquiry that analyzes the Constitution and laws so as to better understand the institutional operations of government and/or the behavior of elected and unelected officials. It involves the study of not only constitutional and statutory text along with judicial opinions, but also the actions of the executive and legislative branches of government. In the area of presidential studies, the work of Edward Corwin (1929, 1932, 1957) best represents this form of analysis.

The main objective of this article is to highlight the importance of public law analysis in the presidential studies field. First, a brief summary of the behavioralist movement and its weaknesses is presented. Next, the article addresses the impact behavioralism has had on presidential studies by focusing on the work of presidential scholars Edward Corwin (1929, 1932, 1957) and Richard Neustadt (1960, 1990). An emphasis is placed on the decline of normative types of public law analysis. The article concludes with a call for greater encouragement and acceptance of public law analysis.

Behavioralism and Political Science

Before addressing the impact of behavioralism on presidency studies, it is useful to briefly describe the movement. First, behavioralists contend that political science scholars should focus on the behavior of individuals, groups, and systems in order to explain how politics operates in practice. They reject—or at least greatly downplay—the so-called traditional understandings of studying politics that focus on theory (e.g., Plato, Aristotle, and other political philosophers) or the formal operations of government by way of constitutional or legal analysis (Farr 1995, 202). Instead, behavioralists argue that political scientists should concern themselves with “what *is*, not with what *ought* to be” (Dahl 1961, 770).

The second key element of behavioralism is the emphasis on methods intended to improve the accuracy of studying political behavior. Within the presidency field, the focus on case studies became early on a dominant method of analysis (Neustadt 1960). As behavioralism matured, it placed greater emphasis on the quantification of studying politics (Farr 1995, 203). As quantification took hold, more political scientists took their methods from economists and began to employ formal modeling using such frameworks as rational choice—a theory that assumes individuals make choices that maximize their personal interests. William Howell’s *Power without Persuasion* (2003) represents well the formal modeling school that is increasingly seen in presidential studies. In his book, Howell claims “a science of politics is finally taking hold of presidential studies” (Howell 2003, 11).

Finally, behavioralists—at least the early adherents of the movement (e.g., David Easton, Robert Dahl, and David Truman) believed political science could reveal general theories of politics akin to what are known in the natural sciences (e.g., Newton’s theory of gravitation or Einstein’s theory of relativity) (Ricci 1984, 149). As David Easton once quipped, “The lack of more reliable knowledge flows directly from an immoderate neglect of general theory” (Easton 1969b, 31). All three of these elements point to a movement that thought political science could be remade into the image of the natural sciences (Bond 2007; Kirn 1977, 85; Leonard 1995, 84; Miller 1972, 802; Ricci 1984, 253;). Charles Merriam perhaps most effectively articulated the behavioralist desire to incorporate the methods of the natural sciences into the study of politics: “more and more it appears that the last word in human behavior is to be scientific; more and more clearly it becomes evident that the social and political implications of natural science are of fundamental importance” (1926, 9).

The dominance of behavioralism in political science is nearly unquestioned. By 1963, behavioralist scholars could point to their field of study being ranked at the top within political science (Somit and Tanenhaus 1963, 941). Just two years prior, Robert Dahl penned the victory celebration piece for behavioralism by noting that “the study of politics has been altered, permanently, by a fresh infusion of the spirit of empirical inquiry—by, that is to say, the scientific outlook” (1961, 772). Even today it can be written that “behavioralism is still a powerful presence” in many areas of political science (Hauptmann 2012, 154).

Of course, there are limits to the blending of science and politics. Political scientists study institutions and people, not plants and animals. The former can, and do, read our work; the latter do not. Presidents and other political actors can react to the knowledge that they gain, which, in turn, affects the future study of the very people and institutions political scientists research and analyze (Oren 2006, 79). In the field of presidential studies, the best example of such behavior is when presidential candidate Jimmy Carter in 1976 spoke about how much James David Barber’s book *Presidential Character* had “heavily influenced” him and proclaimed himself to be an “an active positive” leader (Barber 1992, 399). Carter was so influenced by the book that he had Barber and his wife visit the governor’s mansion (Glad 1980, 487). Considering how central personality was to his 1976 campaign, one cannot help but wonder what impact Barber’s study had on Carter’s behavior (Glad 1980, 488). As Barber notes, his book may have merely “shaped Carter’s presentation of himself,” and Barber “might have been charmed out of

objectivity by the élan and ease of the Carter hospitality” (1992, 399). Barber quickly dismisses such concerns, but the points raised are important ones to consider in the study of human behavior.

Turning to behavioralism’s theoretical and methodological impulses, there has always been an allure of discovering grand theories that will explain political behavior. This is not a new endeavor. In 1929, Edward Corwin stated that behavioralists believed political science could “predict the future just as astronomy, physics, and chemistry are able to do—not to mention astrology, alchemy, and palmistry” (569579). By the mid-1970s some observers noted that political scientists were no closer to finding “a coherent and persuasive alternative vision of the meaning and practice of political science” that behavioralists promised (Reid and Yanarella 1975, 288). By 2004, Robert Dahl had all but abandoned any hope of creating “a general theory of politics” and suggested it “may be a waste of scholarly time” (379). Others have found similar failings of the behavioralist promise of discovering general theories (Farr 1995, 220-21; Miller 1990, 235-37; Wahlke 1978, 24). But the pursuit of general theories is not dead. In 2012, Kim Quaile Hill remarked, there is “a universally recognized assumption that theory building is a primary goal of our discipline” (917).

Behavioralism’s drive to treat political science more like the natural sciences led some in the discipline to employ formal modeling. William Howell explains that within presidential studies “empirical tests now are commonplace; theoretical assumptions are clearly specified; and hypotheses are subject to independent corroboration” (2003, 11). Scholars who adopt modeling believe that the precision of one’s conclusions can be honed through mathematical methods. The downside to such pursuits is that often formal modelers are too focused on methods and not actual political problems (Green and Shapiro 1994, 1996). One scholar even advocated that in order to advance modeling, political scientists “should ignore the real world, or at least much of the information it presents to us, more often than we do” (Hill 2012, 927). Modelers likely disagree that they ignore political issues. However, Gabriel Almond criticized rational choice scholarship for too often introducing “supporting assumptions that are outside the logic of objective rationality,” along with failing “to acknowledge assumptions that are important for their policy conclusions, which may be of doubtful validity” (1990, 133-34).

Ian Shapiro has emphasized the need for political scientists to move past the “theory-drivenness” of the discipline and instead work on smaller analytical problems. Shapiro calls his approach “a two-step venture that starts when one shows that the accepted way of characterizing a piece of political reality fails to capture an important feature of what stands in need of explanation or justification. One then offers a recharacterization that speaks to the inadequacies in the prior account” (2004, 39).

One could argue that many traditional and even behavioral minded political scientists have been utilizing a “two-step” approach for decades. Yet Shapiro’s larger point that political scientists need “to throw their weight against the powerful forces that entice scholars to embroider fashionable theories and massage methods in which they are professionally invested while failing to illuminate the world of politics” is a good one (2004, 39-40). Although somewhat overstated, one cannot help but have some sympathy for the conclusion that “political science has little to show for its century-long effort to

follow the path of the natural sciences” (Oren 2006, 77). Perhaps in following the natural sciences political science has focused too much on precision of its methods while paying too little attention to the need for relevance and usefulness.

Behavioralism and Presidential Studies: Corwin and Neustadt

Focusing on behavioralism’s impact on presidential studies, the work of one of the most prominent presidential scholars, Richard Neustadt, is illuminating. In 1960, as a former Truman administration official, he suggested that the office of the chief executive is essentially divorced from the Constitution and that presidential power amounts to “the power to persuade” (Neustadt 1960, 10). He believed the presidency’s central focus is with the accumulation and retention of power, arguing that when the presidency prevails so does the nation: “What is good for the country is good for the President, and vice versa” (Neustadt 1960, 185).

The significance of Neustadt’s work cannot be overstated. Thomas Cronin, writing nearly two decades after the publication of *Presidential Power*, noted that the book was received “as a brilliant and pioneering contribution to our understanding of the operational realities of presidential leadership” (Cronin 1979, 381). Raymond Tatalovich and Steven Schier in their book on the history of presidential studies note that nearly “every work of scholarship on the presidency pays homage to [Neustadt’s] seminal view of presidential power as ‘influence’ or persuasion” (2014, 111). They also explain that Neustadt’s work was in line with “the unfolding behavioral revolution,” which “itself [was] a broadside attack on the historical, legalistic, and institutional framework of scholars like [Edward] Corwin” (Tatalovich and Schier 2014, 112). Or as Michael Nelson put it, “Neustadt’s *Presidential Power* wasn’t Corwin’s *The President: Office and Powers*, with its old-style concern for law and Constitution” (1987, xiv).

In publishing *Presidential Power*, Neustadt reoriented the presidential field to the model of presidents being power maximizers while paying little attention to the constitutional or legal aspects of the office. From nearly the moment Neustadt’s work appeared, there were criticisms of it that continue to this day (Dickinson 2009; Hargrove 2001). A recent article by Benjamin Kleinerman (2014) objects that Neustadt’s presidential power model at the very least provides an incomplete picture. Indeed, presidential power is often not about persuasion but unilateral action in the form of vetoes and pardons that are powers firmly rooted in the Constitution (Crouch 2009). But, according to William Howell, under the Neustadt model, “a reliance on formal powers actually signals weakness” (2003, 9).

More important than the incompleteness of Neustadt’s model is the larger issue of behavioralism that his work represents—that is, a movement away from the study of the Constitution and law in presidential studies (Nelson 1987, xvi). By dismissing public law concerns, presidential scholars limit the study of the presidency. For example, John Hart has noted the Neustadt’s approach “does not allow political science to distinguish between the use and the abuse of Presidential power” (1977, 56). Hart proceeded to note that the 1970s forced presidential scholars to address the power issue more fully. He argued that the “power outcome, as opposed to the policy outcome, must then be

considered and, if that outcome shows that power is being abused, can political scientists avoid making statements about it?" Finally, Hart pointed out that it is ironic that "the Neustadt framework might also be used to rate Nixon's handling of the Watergate cover-up as an effective example of Presidential power" (1977, 56).

It is often reported that Neustadt's *Presidential Power* was not only a response to an overly legalistic view of the presidency but also the inability of Corwin and others to study "presidents' capabilities to govern through means not formally prescribed" (Whitford and Yates 2009, 3). That understanding of Corwin's scholarship is false. First, although Corwin certainly analyzed the presidency by way of a public law analysis, he did so in broad and sweeping ways to give the president more constitutional and legal authority than what even many contemporary presidency scholars would contend is proper. For example, Corwin's views on executive privilege are more expansive than what many modern day judicial decisions permit (1957, 110-17). In another case, Corwin (1932) advanced the idea that the Constitution is flexible enough to permit a more active federal government. Various studies have been written that highlight Corwin's impulse to interpret the Constitution in ways that maximized presidential power (Tatalovich and Schier 2014, 131-35; Tatalovich, Cook, and Yenor 2000, 105).

Second, Corwin's work—in particular his presidency book—examined in great detail the personal aspects of presidential power that Neustadt believes are so vital. As mentioned, Corwin analyzed the president's executive privilege authority—an aspect of the presidency that is not mentioned in the Constitution. In addition, he reviewed other features of the presidency that have been built through practice or, more aptly described, the personality of the officeholder. These are the cabinet, removal power, and the president as a legislative leader. One study found a number of "personalized leadership practices" Corwin described and analyzed, including "the 'bully pulpit,' executive draftsmanship of bills for Congress, delivery in person of the State of the Union Address, the forging of interest groups coalitions, and the use of well-timed veto threats" (Tatalovich, Cook, and Yenor 2000, 105). Corwin himself wrote, "what the presidency is at any particular moment depends in important measure on who is President" (1957, 30). Far from being some narrow "legalistic" view of the chief executive Corwin's work studied the presidency in practice in a much greater and richer detail than Neustadt's more narrow personalized account of presidential power.

Neustadt's decision to divorce the Constitution from the study of the chief executive was not unique in the field of presidential studies (Fisher 2012, 2014). Indeed, his thesis was compatible with the behavioralism bent of the political science profession and the general faith that presidential scholars put into the presidency, particularly from Franklin Delano Roosevelt (FDR) to John F. Kennedy (JFK). The implications, however, for adopting the Neustadt model are clear. Presidential studies research began a rapid movement away from the study of public law and with it any attention to whether the presidency was adhering to the rule of law, due process standards, and other "legalistic" concepts. Within political science, there were few scholarly predictions or warnings of the downfall of the presidency through aggrandizement in the form of Richard Nixon. In fact, one of the few individuals to warn of the accumulation of presidential power was George Reedy (1970), former press secretary for Lyndon Johnson.

The Decline of Public Law Analysis in Presidential Studies

The decline of legal analysis within political science is well known. Starting in the early twentieth century, behavioralists looked to displace what they considered to be the outmoded study of the law with more scientific methods. To be sure, at the founding of APSA, public law was considered a key element in the study of political science. Giving the inaugural presidential address at the first annual APSA conference Frank Goodnow declared, “public law must be assigned a most important place in an association devoted to the study of Political Science.” He proceeded to argue that “it is very doubtful whether one can be a political scientist in any sense without a knowledge of the law governing the systems subject to study” (Goodnow 1904, 42).

Less than ten years after Goodnow’s remarks, Woodrow Wilson (1911) openly attacked the study of the law and provided a series of arguments for why political scientists should disregard it altogether. In his presidential address at the seventh annual APSA conference, Wilson argued that political science “must look away from the piecemeal law books, the miscellaneous and disconnected statutes and legal maxims, the court decisions, to the life of men” (1911, 6). He believed that law “in a moving, vital society grows old, obsolete, impossible, item by item” (Wilson 1911, 1). Instead, Wilson advanced a behavioral conception of political science divorced from public law: “I take the science of politics to be the accurate and detailed observation of these processes by which the lessons of experience are brought into the field of consciousness” (1911, 2). Repeatedly he declared that political science should “break with our [legal] formulas” because studying human behavior “through the medium of the constitutions and traditions of the states they live in” is foolhardy (Wilson 1911, 10).

Wilson’s dismissal of the public law concerns matches up well with our understanding of the man. He was a political reformer who advanced the idea that a great statesman sitting in the White House could provide answers to the country’s problems. His APSA convention speech was a continuation of his work in *Constitutional Government in the United States*, which advanced similar notions that human actions and law are one and the same: “constitutional government is one whose powers have been adapted to the interests of its people” (Wilson 1908, 2). Wilson spoke of liberty and rights, but his primary objective was to remove any constitutional and legal restrictions to government action. He placed the need for an active government run by an unfettered chief executive above all other considerations, including the rule of law and due process rights. Let the president “once win the admiration and confidence of the country,” Wilson declared, “and not one single force can withstand him, no combination of forces will easily overpower him” (1908, 68).

To Wilson, if constitutions and laws have no fixed meanings and are just byproducts of human affairs, then there is no reason for political scientists to study them. Wilson would not be the last APSA president to advocate the end of public law analysis. At the 1926 meeting, Charles Beard stated that the “creative work” in political science is limited by several factors. First, among them is the discipline’s adherence to public law concerns. He argued: “political science has too long been a house-hold drudge for

lawyers—political lawyers at that.” Beard contented that the discipline primarily concerns itself with “statutes, ordinances, decrees, and judicial decisions” which are “often shadowy reflections of the stern realities of life” (1927, 6).

Beard’s criticisms matched well with the general behavioral mood beginning to sweep the profession. In 1927, Floyd Allport argued that once the discipline realizes “government itself is behavior,” it then becomes “possible for political scientists to cease considering their field as one of formal description and legalistic philosophy, and to regard it as a *natural science*” (1927, 277, italics in original). Another APSA president, William Munro, did well to combine behavioralism’s impulse to dismiss public law concerns with its desire to mimic the natural sciences: “Political science, to become a science, should first of all obtain a decree of divorce from the philosophers, the lawyers, and the psychologists with whom it has long been in the status of a polygamous companionate marriage to the detriment of its own quest of truth” (1928, 8).

By the late 1930s, the de-emphasis of public law analysis had begun to be felt. Speaking at the 1939 APSA convention, Charles Grove Haines discussed the decline of public law “instruction in departments of political science” and the shifting of such concerns to “law school curricula” (Haines 1940, 27). He noted that some in political science “maintain that the only deserving place for public law courses in which the case method of instruction is used is in the law schools.” Defending the place of public law in political science Haines countered, “such views are incompatible with the best interests of legal instruction both in the law schools and in departments of political science.” Public law studies, he believed, belongs “as much to the field of the political and social sciences as it does to the field of the law, and political and social scientists as well as lawyers may well cooperate in the consideration and evaluation of the vital problems involved in its development” (Haines 1940, 27).

A larger number of political scientists seemed to have listened to Wilson and Beard, not Goodnow and Haines. By the 1950s, Foster Sherwood could write that public law has “all but disappeared as a recognized object of study for political science” (1958, 87). In 1968, C. Herman Pritchett wrote perhaps the most detailed and cited account of the movement away from public law analysis by highlighting discipline surveys and studies. In one survey, public law ranked next to last in the level of perceived importance to the study of political science. In a series of cited studies, Pritchett described the rapid decline since the 1950s in public law articles appearing in political science journals (1968, 480). By 1967, Pritchett noted, APSA stopped listing public law in its convention program and replaced the term with “Judicial Processes” (Pritchett 1968, 481).

Pritchett proceeded to list the various types of research pursuits within political science. His accounting made clear that behavioral scholarship dominated the field of public law by the late 1960s. In fact, another contemporary of Pritchett’s, Glendon Schubert, claimed in 1963, “It is no exaggeration to state that the past half dozen years have witnessed a transition from the study of public law to the study of judicial behavior” (445). Such a picture matches up well with more contemporary studies of the field. As Keith Whittington noted in 2000, “judicial decision making has been at the core” of what most scholars view public law to be since the behavioral revolution (601).

The public law field is now officially titled, “Law and Courts”—a formal section within the APSA organized in 1983. Even as far back as 1970, public law scholar Theodore Becker advised, “we must drop the label ‘public law’ immediately.” Continuing, he argued that public law “has absolutely no relationship to the development of any theory whatsoever” (145). Writing five years later, Schubert provided a similar critique: public law scholars “are uninterested in either systematic theory, quantitative methods of research, statistical measurement of data, or observations of courts and judges—pursuits that would make it possible to study adjudication in the context of the larger political process” (1975, 37). Another scholar noted the public law label implied the field oriented itself “toward law rather than political science” (Baum 1983, 198). As a result, even within the field of public law, there is no consensus that legal analysis is a valid or useful pursuit in the fulfillment of political science studies.

Second, the substance of the work within Law and Courts—as noted—is now predominately focused on the study of judicial behavior. In a historical study of the field Nancy Maveety discussed the “law avoidance” of contemporary political science and put some of the blame on judicial behavioralism scholars because they “encouraged (though not explicitly or directedly) in its ‘denigration [of] formal legal and constitutional structures and languages as mere appearances behind which real and quantifiable political behavior lurked.’”¹ Continuing, she explained, “Constitutional law—doctrinal analysis—remained an eroded remnant of public law and an undertaking that tied the judicial field to its antediluvian roots: legalistic case analysis and legal structural description. Many judicial behavioralists—aspiring, perhaps, to be like their compatriots in other fields—were ready to jettison such trapping of ‘fake lawyers’ servicing traditional, marginal concerns of political science” (Maveety 2003, 18). The result of those changes has meant that the term “public law” often takes on different meanings depending on the scholar.

It is not surprising that with the general move away from the law in political science and the public law field’s shift to the study of judicial behavioralism, fewer and fewer presidency scholars employ traditional public law modes of analysis. However, that does not mean public law analysis has gone missing in presidential studies. After Nixon’s resignation and near impeachment, Thomas Cronin wrote *The State of the Presidency* (1975), which provided a greater emphasis on public law analysis to the presidency. Other works began to appear, including Richard Pious’s *The American Presidency* (1979); Joseph Bessette and Jeffrey Tulis’s edited volume titled *The Presidency in the Constitutional Order* (1981); Christopher Pyle and Richard Pious’s *The President, Congress, and the Constitution* (1984); and Robert Spitzer’s *The Presidential Veto* (1988). In his recent article, Louis Fisher provides a rather thorough listing of contemporary scholars who “place executive power within the framework of the Constitution, law, and checks and balances” (Fisher 2014, 167).

Despite the increase in public law analysis, presidential scholarship is still very much orientated to the Neustadtian model (Howell 2003, 11). One recent study of

1. Maveety might have underestimated how explicit judicial behavioral scholars’ statements were about jettisoning public law scholarship (see Schubert 1975, pt. I).

Neustadt and presidential research by Matthew Dickinson quoted *Presidential Power*: “Expertise in presidential power seems to be the province not of politicians as a class but of extraordinary politicians. What sets such men apart?” That question—Dickinson noted—is still waiting an answer (2009, 763). Perhaps after all the presidential blunders since at least the publication of Neustadt’s book, presidential scholars should flip the question: how do we limit presidential power when “extraordinary politicians” may not, or even may, be serving in the White House? All humans, even the great ones, are fallible. One must design and operate systems to mitigate against not only presidential mistakes but abuses and illegalities as well. Instead of carefully analyzing presidential power, many political scientists promote idealized models (Fisher 2012).

The work of William Howell reflects Neustadt’s emphasis on presidential energy, action, and decisiveness. In today’s politics, he writes, “presidents can ill afford to repudiate any power that might enable them to address the onslaught of expectations put before them. For when they do, . . . they suffer mightily for it” (2013, 98). In practice, according to Howell, “the public esteems presidents who break constitutional rules and find ways to exercise their will in the face of institutional checks on their power” (2013, 106).

My point is not to dismiss Neustadt’s question regarding factors that make great presidents. Instead, I contend that there should be a place in presidency scholarship for theory-building and for works that place greater emphasis on describing and explaining the complexity of politics by interweaving history and public law. This is not a new prescription. Over 25 years ago, Michael Nelson argued that presidential scholars must consider “constitutional, historical, cultural, and less tangible” measures that influence presidential behavior (1987, xvi). In 2008, Richard Pious selected a book title that would have been inconceivable to Neustadt: “*Why Presidents Fail*.” Behavioralists and nonbehavioralists both have the same goal: explanation of political actions and events. Too often the two sides go to war over the means to that end. A more constructive path forward is to see value in both lines of inquiry.

Normative Scholarship: The “Is” Versus the “Ought-To-Be”²

One of the most significant changes to take place within political science during the behavioral revolution has been the elevation of “neutral” work above all other research pursuits. Writing in the late 1920s, Edward Corwin noted that behavioralist scholars were trying “to convert political science from a ‘normative’ or ‘telic’ science, as it has been variously called, into a natural science” (1929, 569). By the 1960s, the movement away from “normative” scholarship was well entrenched. Behavioral scholars were routinely announcing that the correct study of politics occurred when one studied “what *is*, not with what *ought* to be” (Dahl 1961, 770). In 1975, Glendon Schubert wrote dismissively of public law scholars: “the focus of inquiry in their writing—because it is not research in any rigorous or scientific sense—consists of generalizations about verbal statements in

2. The subtitle is borrowed from a header in Edward Corwin’s 1929 article (586).

normative form: i.e., law” (1975, 37). The insistence that political science should no longer be preoccupied with normative concerns was the natural result of the behavioralists’ focus on science and methods (Hyneman 1959, 178). Stephen Leonard explains the shift: “if good scholarship was good science and good science was defined by right method, then objectivity no longer required any particular political commitment. Indeed, where scientific objectivity was once understood as necessarily entailing political commitment—as it had for the founding fathers of the discipline—it now became a matter of political neutrality” (1995, 84).

No doubt Neustadt ushered into the field of presidential studies one of the more influential works with *Presidential Power*. That being said, it has a number of shortcomings including a flaw inherent in Neustadt’s own model: presidents need to be power maximizers. But why? Is power an institutional good unto itself? The very idea that power is a good carries with it normative assumptions. Other presidential scholars have shown that a president who looks to maximize power is likely to fail more often than he succeeds (Arnold 1986, 361–62; Fisher 2013a; Hess 2002, 178; Pious 2008). If their work is correct, then the power maximizer model needs to be reassessed. Or, in another light, if one recognizes that presidents can abuse power, then the Neustadt model begins to collapse.

After *Presidential Power* had been in print for nearly three decades, Neustadt had an opportunity to reflect and reassess his model concerning presidential behavior. With his 1990 update Neustadt appeared to remain steadfast in his assertions about presidential power: “I persist in the belief expressed in earlier editions of this book—namely that pursuit of presidential power, rightly understood, constitutionally conditioned, looking ahead, serves purposes far broader than a President’s satisfaction” (xix). At the center of his remarks was a continued belief in presidential power. However, unlike his initial writings, in 1960 Neustadt did more to qualify the use of presidential power with words such as “rightly understood” and “constitutionally conditioned.” The qualifications lend themselves to even more questions. Who gets to decide what is “rightly understood”? What sort of “constitutionally conditioned” presidency did Neustadt have in mind? Such questions are inherently normative.

After summarizing some of the failings of the presidency under JFK, Nixon, and Ronald Reagan, Neustadt opined that those presidents “did not think enough about prospective power, not anyway in its symbolic and constitutional dimensions” (1990, xviii). If modern presidents “did not think” of their “constitutional dimensions,” certainly the lack of emphasis in Neustadt’s and others’ scholarship did not help them do so. At no point in the 1960 edition of *Presidential Power* did Neustadt attempt to provide any understanding of the limits—constitutional or otherwise—of the modern chief executive for citizens or future White House officeholders. Perhaps doing so would have meant moving in the direction of normative scholarship. If so, then Neustadt had already done that by implicitly basing his model on normative assumptions (Eastland 1992, 298–99).

Regardless of why *Presidential Power* ignored public law concerns, Neustadt did not write a book that realistically portrayed the presidency at the mid–twentieth-century mark. What he wrote instead was a *Gedenkschrift*, or tribute, to FDR (Hargrove 2001, 245). Normative values of limitless power separated from the rule of law were imbedded

in Neustadt's very model of the presidency. It fit well with the progressive view of the presidency advocated by Woodrow Wilson (1908). In a certain sense, Neustadt's vision of the presidency was partly fulfilled by the presidencies of Johnson and Nixon. But the Vietnam War blackened Johnson's record, and the Watergate scandal under Nixon could not have been what Neustadt envisioned for presidential leadership.

The lesson of Neustadt is not that normative research should somehow be completely removed from the study of the presidency. Far from it. There should always be in the presidential studies field a variety of methodological approaches and views. My contention is that in most discussions and studies of the presidency, it is necessary to provide a mode of discussion and analysis that is forthcoming about the normative assertions in one's work (Snyder 2003, 353). In the field of presidential studies, nowhere is this truer than when it comes to public law concerns. Public law scholarship by Corwin and others should not be so easily dismissed or ignored by contemporary scholars. The tradition of public law in political science is important because it helped determine when presidential actions were constitutionally or legally justified.

Public law research is not a makeweight exercise. Dismissing normative questions of law means ignoring an important part of presidential behavior: presidents and their staff have strong incentives to understand and follow the Constitution and law. That was a major weakness in *Presidential Power*. As Michael Nelson notes, "Neustadt ignored a wide and important array of constitutional influences on presidential power, whether as 'rules of the game' that shape and sanction political behavior or as norms that presidents and others follow, or at least invoke, in determining their actions" (1987, xvi). The Constitution and laws not only give shape and authority to the federal government but—more importantly—other institutional actors (i.e., federal judges and members of Congress) and private citizens will often push back against presidents who break constitutional and legal prohibitions. The fact is that various clauses of the Constitution order and constrain behavior, and therefore any study of the presidency that simply ignores them is deficient.

There are at least two important points that need to be raised in regard to norms and public law. First, the assumption that public law concerns are always unclear is false. The Constitution and law provides many instances where institutional actors are clearly prohibited from acting. The speaker of the House can no more exercise the pardon power than the president can spend money without an appropriation from Congress. Frederick Schauer confirmed this view of law separating what he termed "easy cases" from "close" or "hard" ones. To him, there are "lots of" easy cases in constitutional law and "once free from the . . . preoccupation with close cases . . . we begin to comprehend the enormous quantity of instances in which the legal results are commonly considered obvious" (Schauer 1985, 414). Second, dictates from the Constitution or statutes are not simply normative claims to some abstract value from long dead actors or vanished societies. The Constitution and laws are real and much-used documents that significantly affect political institutions and actors. Political actors can, and do, rely on the text, case law, and interpretative views of scholars to determine their obligations and duties before the law. Political scientists do a real disservice to the study of politics in ignoring such concerns.

History and practice guide constitutional government. Life needs to be breathed into the Constitution to give it meaning beyond words that may have subjective or uncertain implications. The research pursuits of historical institutionalism and constitutional construction scholars are prime examples of such public law analysis. In *Constitutional Construction*, Keith Whittington argues that presidents and lawmakers can and do provide meaning to the Constitution. The Constitution depends on political actors to “formulate authoritative constitutional requirements and to enforce those fundamental settlements in the future” (Whittington 1999, 1). Of course, Whittington’s conceptual formulation is not new. Other scholars have focused on the ability of Congress and the president to provide their own interpretation and meaning of the Constitution (Fisher 1988; Morgan 1966).

Public law analysis has always been about more than a textual understanding of the Constitution and laws. Since the early twentieth century legal scholars have researched and debated the impact of law on political institutions. The works of Karl Llewellyn and other legal realists distinguish between “paper rules” and “working rules” (Llewellyn 1930, 444-57). Such studies align well with behavioralist scholarship. Indeed, one critic of the legal positivism school noted that legal realism “insists on drawing a sharp distinction between the law that is and the law that ought to be” (Fuller 1940, 8). Such pursuits have been and remain useful in the study of political science through a public law analysis. Louis Fisher’s work in the area of presidential war power is a prime example. Fisher notes that beginning with the Truman administration, presidents have not always followed the constitutional requirement that Congress authorize or declare wars (2013a). Disengaging from research that attempts to study and understand governing behavior that either dismisses or adheres to binding constitutional and legal standards is not only puzzling but misguided.

Law sets the stage for political actions to occur because it provides elected officials the authority to act. It also prohibits certain actions. Besides making a public law analysis of political behavior, scholars have a responsibility to offer judgments. As Cornell Clayton once remarked about claims to neutrality, “honest research should lead on to whatever conclusion the evidence recommends” (Fisher 2011, 300). That is why it is important for political scientists to voice their judgment when they find fault with the actions of presidents. A few of the more recent normative works that are driven by a public law analysis include Richard Pious’s *The War on Terrorism and the Rule of Law* (2006), Louis Fisher’s *The Constitution and 9/11* (2008), and Michael Genovese’s *A Presidential Nation* (2013). One of the most significant books in this vein is James P. Pfiffner’s *Power Play* (2009), which took head on George W. Bush’s administration actions to expand the scope of presidential power in ways that avoided and violated constitutional restrictions.

Conclusions

This article began by focusing on the struggles within political science between the behavioral and nonbehavioral camps. Gabriel Almond believes that the two camps do not represent the views of the average political scientist but instead they consist of the

extremists (1988, 830). The methodological debates have left at least one scholar to say that “American-type political science is going nowhere” (Sartori 2004, 786). I think that reaches too far. In the field of presidential studies, political scientists have (and do) offered new and interesting insights that provide knowledge to the discipline and outside world. However, there is a tendency among some scholars to internalize debates about political research and focus on ever-narrower questions to the point where they fail to engage the outside world in meaningful ways.

I believe Rogers Smith rightly diagnosed a major challenge that political science faces, which is the profession “has always been shaped by two often conflicting desires: to serve American democracy and to be a true ‘science’” (1997, 253). The rise of behavioralism, and the creation of models, produced real and sustained problems within the discipline (Ricci 1984). Modeling, for instance, took the discipline further away from analytical pieces that describe political problems and into a level of abstraction that leaves students and political leaders unsatisfied (Dixon 1971, 24). Such a criticism, as one scholar pointed out, is “a clear indictment of the highly abstract and jargon-laden discourse that had come to pass as high-quality scholarship” (Leonard 1995, 90). The result is that analytical disputes have created barriers in fulfilling the original goal of the discipline.

The “jargon” criticism is an old one. In 1984, David Ricci noted that jargon in political science has proliferated because behaviorist scholars claim that “an effective science can exist only where the ambiguity of everyday terms is avoided by a technical vocabulary which enables scientists to speak precisely and effectively about the complex world of nature and society (224). More recently, Robert Putnam, in his presidential address at the 2002 APSA convention, criticized political scientists for not phrasing “our knowledge in accessible ways.” He argued that “if we are to engage in civic deliberation with our fellow citizens, we need to learn to speak ordinary English” (Putnam 2003, 252). A few years later, Stephen Wasby penned an article making a similar point: “even if we continue to engage in ‘normal science’—in order to satisfy our peers and obtain tenure and promotion—we can make that normal science more useful for practitioners by making it more accessible” (2006, 491).

Critics of political science point to the increased specialization within the profession that exacerbates the lack of relevance to the outside world. Lawrence Mead once labeled the defect as “scholasticism.” By this he meant “a tendency for research to become overspecialized and ingrown” (Mead 2010, 453). One scholar called the phenomenon “the fetishism of subfields” (Kaufman-Osborn 2006). Mead’s central point was that political science’s desire to mimic the natural sciences “has come at the expense of relevance to political problems and issues as non-academics perceive them” (2010, 453).

Criticism that political science research is not pertinent to practitioners has been continually debated (Gerring and Yesnowitz 2006, 104; Smith 1997; Wahlke 1978, 19). I agree that our discipline can do better if we write articles that are more accessible to nonacademics. However, aside from avoiding overly technical jargon, we should do more to engage the real world. Certainly, congressional, presidential, and judicial fellowships have been a real benefit to political science. However, a one- or two-year stint in a congressional office does not necessarily give a person a “real” insight into what Congress

is doing. Perhaps political science might build a stronger link to the political institutions it studies by seeing more of its members following the practitioner–scholar model. Political scientists, like Leonard White (member on the Civil Service Commission), Charles Merriam (member on the National Resources Planning Board), and Louis Brownlow (chair of FDR’s Committee on Administrative Management), were all active researchers. All were also engaged in significant ways in our governing institutions. A recent article by Louis Fisher identifies numerous political scientists who fill the role of practitioner (2013b).

Political scientists could also do a better job of publishing in sources readily available to the public. Recall that the essays known as *The Federalist* by Alexander Hamilton, John Jay, and James Madison originally appeared in newspapers. Andrew Stark noted, “It may be time for [political scientists] to do with the *New Republic* and the *New York Review of Books* what they are so justifiably proud of doing with the *American Political Science Review* and other peer-reviewed journals” (2002, 579). Certainly political scientists publish in non–peer-reviewed outlets. At the *Washington Post*’s Monkey Cage, various political scientists pen short articles by applying their research to contemporary political issues. However, Stark’s point is a good one. The discipline continues to marginalize itself by failing to engage the outside world (Jacobs and Skocpol 2006, 28). Publishing articles and book reviews in more widely circulated and read places is certainly a small but important step at engagement. On a personal note, during my time working at Congressional Research Service I knew staffers were more likely to pick experts to testify who engaged both the public and Congress. Scholars in other disciplines—most notably law professors—have been successful at such engagement tactics. As a result, they have taken the place of political scientists as the go-to experts at congressional hearings.³

Observations that political science has left public policy to other professions are nothing new. In 1971, Robert Dixon wrote, “To the extent that political science minimizes substantive public law and focuses on measurement and numerology, it leaves substantive matters to the still pragmatically oriented law professors” (25). Political scientists, by knowledge and training, are as capable as law professors in providing expert advice to Congress, the president, and others. This is a matter the discipline should greatly encourage. Some might argue that law professors, because of their legal training, have an advantage in addressing public law concerns. However, since the early twentieth century, legal realism has come to dominate. Many lawyers believe that law is shaped by the personal values of those who interpret and apply it (i.e., judges and lawyers). In that respect, law professors are no different than behavioralists. Both see law as what is practiced (a behavioral conception) and not necessarily what is required by the Constitution or statutes.

Consider the work by law professors Eric Posner and Adrian Vermeule. In *The Executive Unbound* (2010), they argue that the aggrandizement of executive power and concerns about whether the Constitution has been violated should not matter because

3. C. Herman Pritchett was likely one of the first political scientists to make such an observation (see Pritchett 1968, 483-84).

presidential actions are safely constrained by politics and public opinion. Under such a system of government, they argue, the Constitution and law cease to have any meaning. Even on its face, the proposition is not true. Political actors cannot so readily dismiss the rule of law and rely on public opinion to carry the day. Constitutional and legal obligations can and do shape political behavior.

Robert Spitzer makes an important point about leaving the field of public law analysis to law professors. Their legal training and primary publication outlets—law reviews—tend to provide opportunities to invoke unreliable views of the Constitution (Spitzer 2008). Spitzer directs the bulk of the blame to law reviews that are run by law students. Such outlets publish non-peer-reviewed articles that are not subject to “any expertise-based assessment.” As he notes, law reviews “are a breeding ground for wayward constitutional theorizing” (Spitzer 2008, 4). In particular, Spitzer points to how the history of the Commander-in-Chief Clause has been misconstrued through such publications (Spitzer 2008, 99-128). The point is that political scientists should not disengage from such discussions. Without Spitzer’s and others’ work in the area of presidential power, political science would likely only have legal arguments from law reviews that rely on misleading constitutional history or theories.

Finally, constitutional and legal authority questions should be a valid and important part of presidential studies. As Andrew Rudalevige recently noted, “we need to give harder thought to when presidents—not the current president, whomever that president is—*should* be powerful, and when they should be constrained. And we need to do so, preferably, before the next crisis swamps critical thought” (2009, 24). Prospective or even retrospective studies of public law concerns within political science journals are rare. Looking at the articles that have appeared in *the American Political Science Review* (APSR), *American Journal of Political Science* (AJPS), and *Journal of Politics* (JOP)—three general political science journals that are routinely ranked at the top of Thomson Reuters’ *Journal Citation Reports*—one sees a lack of attention placed on public law and normative concerns.

None of the journals published an article from 2001 until early 2014 that provides a public law analysis to the study of political science. The APSR did not publish an article within the 2001-2014 period that even somewhat focused on the presidency and public law. In AJPS two articles appeared with such a focus (Conrad and Moore 2010; Dragu and Polborn 2014), and two were published in JOP (Dragu and Polborn 2013; Keith, Tate, and Poe 2009). Three of the articles emphasized torture or human rights abuses (Conrad and Moore 2010; Dragu and Polborn 2013; Keith, Tate, and Poe 2009). The fourth analyzed security policy and terrorism concerns (Dragu and Polborn 2014). Missing from the political science literature during this time were topics that dealt with these constitutional and legal issues: the creation of military tribunals, torturing of detainees, and the use of drones against suspected terrorists. On the domestic side, missing from the literature were the constitutionality of recess appointments during an intrasession break, executive privilege claims to withhold information from Congress, and the use of personal immunity to shield federal officials from accountability.

APSR, AJPS, and JOP might not be a representative sample of what constitutes political science research. As Lee Sigelman noted when reviewing the history of APSA,

"I doubt that the contents of [APSR] constitute a representative cross-section of the research that political scientists have produced as the discipline has evolved, or even of their 'best' work" (2006, 463). However, these journals stand at the head of the class and are generally considered to be the most valued publications for promotion and tenure. As a result, the inability of even one article that employs public law analysis to appear in these journals is troubling. Certainly public law articles have appeared in other journals like *Presidential Studies Quarterly* and *Political Science Quarterly* but those works represent only a small fraction of the political science scholarship. That is regrettable because political science has real opportunities to address relevant and pressing political questions.

This article does not advocate the primacy of public law research. Nor does it contend that public law analysis supplies all the answers. Stephen Skowronek has rightly argued that the meaning of the Constitution can be "eminently contestable and fiercely contested" and that "a satisfactory resolution" to various legal controversies might be "quite limited" (2011, 30). He is right: public law analysis is limited, but so are all other research methods in political science. If political scientists were to follow only perfect methods of analysis, then the profession would have none. Instead, public law analysis can be viewed as a way to understand and further the study of politics by focusing on the constitutional and legal aspects of governing behavior. In that light, public law analysis is a useful tool for political scientists to employ and could be helpful in bringing greater relevance to the political science profession.

References

- Allport, Floyd H. 1927. "Political Science and Psychology." In *The Social Sciences and Their Interrelations*, eds. William F. Ogburn and Alexander Goldenweiser. Boston: Houghton Mifflin, 259-78.
- Almond, Gabriel A. 1988. "Separate Tables: Schools and Sects in Political Science." *PS: Political Science and Politics* 21 (Fall): 828-42.
- . 1990. *A Discipline Divided: Schools and Sects in Political Science*. Newbury Park, CA: Sage.
- Arnold, Peri E. 1986. *Making the Managerial Presidency*. Princeton, NJ: Princeton University Press.
- Barber, James David. 1992. *The Presidential Character: Predicting Performance in the White House*. Upper Saddle River, NJ: Prentice Hall.
- Baum, Lawrence. 1983. "Judicial Politics: Still a Distinctive Field." In *Political Science: The State of the Discipline*, ed. Ada W. Finiter. Washington, DC: American Political Science Association, 189-216.
- Beard, Charles A. 1927. "Time, Technology, and the Creative Spirit in Political Science." *American Political Science Review* 21 (February): 1-11.
- Becker, Theodore L. 1970. "Judiciary Theory." In *Approaches to the Study of Political Science*, eds. Michael Haas and Henry S. Kariel. Scranton, PA: Chandler Publishing, 144-66.
- Bessette, Joseph M., and Jeffrey Tulis. 1981. *The Constitutional Presidency*. Baton Rouge: Louisiana State University Press.
- Bond, Jon R. 2007. "The Scientification of the Study of Politics: Some Observations on the Behavioral Evolution in Political Science." *Journal of Politics* 69 (November): 897-907.
- Conrad, Courtenay Ryals, and Will H. Moore. 2010. "What Stops the Torture?" *American Journal of Political Science* 54 (April): 459-76.
- Corwin, Edward S. 1929. "The Democratic Dogma and the Future of Political Science." *American Political Science Review* 23 (August): 569-92.
- . 1932. "Social Planning Under the Constitution—A Study in Perspectives." *American Political Science Review* 26 (February): 1-27.

- . 1957. *The President: Office and Powers, 1789-1957*. New York: New York University Press.
- Cronin, Thomas E. 1975. *The State of the Presidency*. Boston: Little, Brown.
- . 1979. "Presidential Power Revised and Reappraised." *Western Political Quarterly* 32 (December): 381-95.
- Crouch, Jeffrey P. 2009. *The Presidential Pardon Power*. Lawrence: University Press of Kansas.
- Dahl, Robert A. 1961. "The Behavioral Approach in Political Science: Epitaph for a Monument to a Successful Protest." *American Political Science Review* 55 (December): 763-72.
- . 2004. "What Have We Learned?" In *Problems and Methods in the Study of Politics*, eds. Ian Shapiro, Rogers M. Smith, and Tarek E. Masoud. New York: Cambridge University Press, 377-94.
- Dickinson, Matthew J. 2009. "We All Want a Revolution: Neustadt, New Institutionalism, and the Future of Presidency Research." *Presidential Studies Quarterly* 39 (December): 736-70.
- Dixon, Robert G., Jr. 1971. "Who Is Listening? Political Science Research in Public Law." *PS: Political Science and Politics* 4 (Winter): 19-26.
- Dragu, Tiberiu, and Mattias Polborn. 2013. "The Administrative Foundation of the Rule of Law." *Journal of Politics* 75 (October): 1038-50.
- . 2014. "The Rule of Law in the Fight against Terrorism." *American Journal of Political Science* 58 (April): 511-25.
- Eastland, Terry. 1992. *Energy in the Executive: The Case for the Strong Presidency*. New York: Free Press.
- Easton, David. 1969a. "The New Revolution in Political Science." *American Political Science Review* 63 (December): 1051-61.
- . 1969b. "The Condition of American Political Science." In *Behavioralism in Political Science*, ed. Heinz Eulau. New York: Atherton Press, 22-36.
- Farr, James. 1995. "Remembering the Revolution: Behavioralism in American Political Science." In *Political Science in History: Research Programs and Political Traditions*, eds. James Farr, John S. Dryzek, and Stephen T. Leonard. New York: Cambridge University Press, 198-224.
- Fisher, Louis. 1988. *Constitutional Dialogues: Interpretation as Political Process*. Princeton, NJ: Princeton University Press.
- . 2008. *The Constitution and 9/11: Recurring Threats to America's Freedoms*. Lawrence: University Press of Kansas.
- . 2011. *Defending Congress and the Constitution*. Lawrence: University Press of Kansas.
- . 2012. "Teaching the Presidency: Idealizing a Constitutional Office." *PS: Political Science and Politics* 45 (January): 17-31.
- . 2013a. *Presidential War Power*. Lawrence: University Press of Kansas.
- . 2013b. "Political Scientist as Practitioner." *PS: Political Science and Politics* 46 (July): 519-23.
- . 2014. "Connecting Presidential Power to Public Law." *Presidential Studies Quarterly* 44 (March): 157-72.
- Fuller, Lon L. 1940. *The Law in Quest of Itself*. Boston: Beacon Press.
- Genovese, Michael A. 2013. *A Presidential Nation: Causes, Consequences, and Cures*. Boulder, CO: Westview Press.
- Gerring, John, and Joshua Yesnowitz. 2006. "A Normative Turn in Political Science." *Polity* 38 (January): 101-33.
- Glad, Betty. 1980. *Jimmy Carter: In Search of the Great White House*. New York: Norton.
- Goodnow, Frank J. 1904. "The Work of the American Political Science Association." *Proceedings of the American Political Science Association* 1: 35-44.
- Green, Donald, and Ian Shapiro. 1994. *Pathologies of Rational Choice Theory: A Critique of Applications in Political Science*. New Haven, CT: Yale University Press.
- . 1996. "Pathologies Revisited: Reflections on Our Critics." *The Rational Choice Controversy: Economic Models of Politics Reconsidered*, ed. Jeffrey Friedman. New Haven, CT: Yale University Press, 235-76.
- Haines, Charles Grove. 1940. "The Adaptation of Administrative Law and Procedure to Constitutional Theories and Principles." *American Political Science Review* 34 (February): 1-30.
- Hargrove, Erwin C. 2001. "Presidential Power and Political Science." *Presidential Studies Quarterly* 31 (June): 245-61.
- Hart, John. 1977. "Presidential Power Revisited." *Political Studies* 25 (March): 48-61.

- Hauptmann, Emily. 2012. "The Ford Foundation and the Rise of Behavioralism in Political Science." *Journal of the History of Behavioral Sciences* 48 (Spring): 154-73.
- Hess, Stephen. 2002. *Organizing the Presidency*. Washington, DC: Brookings Institution Press.
- Hill, Kim Quaile. 2012. "In Search of General Theory." *Journal of Politics* 74 (October): 917-31.
- Howell, William G. 2003. *Power without Persuasion: The Politics of Direct Presidential Action*. Princeton, NJ: Princeton University Press.
- . 2013. *Thinking about the Presidency: The Primacy of Power*. Princeton, NJ: Princeton University Press.
- Hyneman, Charles S. 1959. *The Study of Politics: The Present State of American Political Science*. Urbana: University of Illinois Press.
- Jacobs, Lawrence R., and Theda Skocpol. 2006. "Restoring the Tradition of Rigor and Relevance to Political Science." *PS: Political Science and Politics* 39 (January): 27-31.
- Kaufman-Osborn, Timothy V. 2006. "Dividing the Domain of Political Science: On the Fetishism of Subfields." *Polity* 38 (January): 41-71.
- Keith, Linda Camp, C. Neal Tate, and Steven C. Poe. 2009. "Is the Law a Mere Parchment Barrier to Human Rights Abuse?" *Journal of Politics* 71 (April): 644-60.
- Kirn, Michael E. 1977. "Behavioralism, Post-Behavioralism, and the Philosophy of Science: Two Houses, One Plague." *Review of Politics* 39 (January): 82-102.
- Kleinerman, Benjamin A. 2014. "The Constitutional Ambitions of James Madison's Presidency." *Presidential Studies Quarterly* 44 (March): 6-26.
- Leonard, Stephen T. 1995. "The Pedagogical Purposes of a Political Science." In *Political Science in History: Research Programs and Political Traditions*, eds. James Farr, John S. Dryzek, and Stephen T. Leonard. New York: Cambridge University Press, 66-98.
- Llewellyn, Karl N. 1930. "Realistic Jurisprudence—The Next Step." *Columbia Law Review* 30 (April): 431-65.
- Maveety, Nancy, ed. 2003. *The Pioneers of Judicial Behavior*. Ann Arbor: University of Michigan Press.
- Mead, Lawrence M. 2010. "Scholasticism in Political Science." *Perspectives on Politics* 8 (June): 453-64.
- Merriam, Charles E. 1926. "Progress in Political Research." *American Political Science Review* 20 (February): 1-13.
- Miller, Eugene F. 1972. "Positivism, Historicism, and Political Inquiry." *American Political Science Review* 66 (September): 796-817.
- Miller, Trudi C. 1990. "Normative Political Science." *Policy Studies Review* 9 (Winter): 232-46.
- Morgan, Donald G. 1966. *Congress and the Constitution: A Study of Responsibility*. Cambridge, MA: Harvard University Press.
- Munro, William Bennett. 1928. "Physics and Politics—An Old Analogy Revised." *American Political Science Review* 22 (February): 1-11.
- Nelson, Michael. 1987. "Rossiter Revisited." In *The American Presidency*, ed. Clinton Rossiter. Baltimore: Johns Hopkins University Press, xi-xxix.
- Neustadt, Richard E. 1960. *Presidential Power: The Politics of Leadership*. New York: Wiley.
- . 1990. *Presidential Power and the Modern Presidents*. New York: Free Press.
- Oren, Ido. 2006. "Can Political Science Emulate the Natural Sciences? The Problem of Self-Disconfirming Analysis." *Polity* 38 (January): 72-100.
- Pfiffner, James. P. 2009. *Power Play: The Bush Presidency and the Constitution*. Washington, DC: Brookings Institution Press.
- Pious, Richard M. 1979. *The American Presidency*. New York: Basic Books.
- . 2006. *The War on Terrorism and the Rule of Law*. New York: Oxford University Press.
- . 2008. *Why Presidents Fail*. Lanham, MD: Rowman & Littlefield.
- Posner, Eric A., and Adrian Vermeule. 2010. *The Executive Unbound: After the Madisonian Republic*. New York: Oxford University Press.
- Pritchett, C. Herman. 1968. "Public Law and Judicial Behavior." *Journal of Politics* 30 (May): 480-509.
- PS. 2000. "An Open Letter to the APSA Leadership and Members." *PS: Political Science and Politics* 33 (December): 735-37.

- Putnam, Robert D. 2003. "APSA Presidential Address: The Public Role of Political Science." *Perspectives on Politics* 1 (June): 249-55.
- Pyle, Christopher H., and Richard M. Pious, eds. 1984. *The President, Congress, and the Constitution: Power and Legitimacy in American Politics*. New York: Free Press.
- Reedy, George E. 1970. *The Twilight of the Presidency*. New York: World Publishing.
- Reid, Herbert G., and Ernest J. Yanarella. 1975. "Political Science and the Post-Modern Critique of Scientism and Domination." *Review of Politics* 37 (July): 286-316.
- Ricci, David M. 1984. *The Tragedy of Political Science: Politics, Scholarship, and Democracy*. New Haven, CT: Yale University Press.
- Rudalevige, Andrew. 2009. "The Administrative Presidency and Bureaucratic Control: Implementing a Research Agenda." *Presidential Studies Quarterly* 39 (March): 10-24.
- Sartori, Giovanni. 2004. "Where Is Political Science Going?" *PS: Political Science and Politics* 37 (October): 785-87.
- Schauer, Frederick. 1985. "Easy Cases." *Southern California Law Review* 58 (January): 399-440.
- Schubert, Glendon. 1963. "Behavioral Research in Public Law." *American Political Science Review* 57 (June): 433-45.
- . 1975. *Human Jurisprudence: Public Law as Political Science*. Honolulu: University Press of Hawaii.
- Shapiro, Ian. 2004. "Problems, Methods, and Theories in the Study of Politics, or: What's Wrong with Political Science and What to Do about It." In *Problems and Methods in the Study of Politics*, eds. Ian Shapiro, Rogers M. Smith, and Tarek E. Masoud. New York: Cambridge University Press, 19-41.
- Sherwood, Foster H. 1958. "The Role of Public Law in Political Science." In *Approaches to the Study of Politics*, ed. Roland Young. Evanston, IL: Northwestern University Press, 86-96.
- Sigelman, Lee. 2006. "The Coevolution of American Political Science and the American Political Science Review." *American Political Science Review* 100 (November): 463-78.
- Skowronek, Stephen. 2011. "Shall We Cast Our Lot with the Constitution?" In *The Presidency in the Twenty-First Century*, ed. Charles W. Dunn. Lexington: University Press of Kentucky, 29-53.
- Smith, Rogers M. 1997. "Still Blowing in the Wind: The American Quest for a Democratic, Scientific Political Science." *Daedalus* 126 (Winter): 253-87.
- Snyder, Jack. 2003. "'Is' and 'Ought': Evaluating Empirical Aspects of Normative Research." In *Progress in International Relations Theory*, eds. Colin Elman and Miriam Fendius Elman. Cambridge, MA: MIT Press, 349-77.
- Somit, Albert, and Joseph Tanenhaus. 1963. "Trends in American Political Science: Some Analytical Notes." *American Political Science Review* 57 (December): 933-47.
- Spitzer, Robert J. 1988. *The Presidential Veto: Touchstone of the American Presidency*. Albany: State University of New York Press.
- . 2008. *Saving the Constitution from Lawyers*. New York: Cambridge University Press.
- Stark, Andrew. 2002. "Why Political Scientists Aren't Public Intellectuals." *PS: Political Science and Politics* 35 (September): 577-79.
- Tatalovich, Raymond, and Steven E. Schier. 2014. *The Presidency and Political Science*. Armonk, NY: M. E. Sharpe, 95-113.
- Tatalovich, Raymond, Travis Cook, and Scott Yenor. 2000. "The Constitutional Presidency: Conservative Scholarship and Energy in the Executive." In *The Presidency Then and Now*, ed. Phillip G. Henderson. Lanham, MD: Rowman & Littlefield.
- Wahlke, John C. 1978. "Pre-Behavioralism in Political Science." *American Political Science Review* 73 (March): 9-31.
- Wasby, Stephen L. 2006. "Silencing the Dummy Variable: A Plea to Heed One's Audience and Publish More." *PS: Political Science and Politics* 39 (July): 491-3.
- Whitford, Andrew B., and Jeff Yates. 2009. *Presidential Rhetoric and the Public Agenda*. Baltimore: John Hopkins University Press.
- Whittington, Keith E. 1999. *Constitutional Construction: Divided Powers and Constitutional Meaning*. Cambridge, MA: Harvard University Press.

- . 2000. "Once More unto the Breach: Postbehavioralist Approaches to Judicial Politics." *Law and Social Inquiry* 25 (April): 601-34.
- Wilson, Woodrow. 1908. *Constitutional Government in the United States*. New York: Columbia University Press.
- . 1911. "The Law and the Facts." *American Political Science Review* 5 (February): 1-11.