LAW AND COURTS

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FROM THE SECTION CHAIR

Lee Epstein
Washington University in St. Louis

PROFESSIONAL DEVELOPMENT FOR NEW POLITICAL SCIENTISTS

A LOOK BACK, A LOOK AHEAD

As my term as Section Chair draws to a close, I thought it appropriate to review key Section activities over the past year and detail some of the challenges I see for the next.

SECTION ACTIVITIES, 1999-2000

Section membership, as I noted in a recent list-serv posting, may be at an all-time high. At the very least, we have grown substantially, from 679 members in June 1999 to 887 as of June 2000 (representing an increase of 30%).

These and other bits of data lead me to the same conclusions Micheal Giles reached last year: "The Section is in excellent health...The finances of the section are excellent. Most importantly, the organizational life of the section is vibrant." To provide some examples of Micheal's last point:

•Between June 1999 and June 2000, the Law and Court's list serv attracted 790 postings. This is an extraordinary figure—one I attribute, first and foremost, to Howard Gillman, who does an outstanding job in moderating the list. Just when the "conversation" seems to be dragging, Howard always manages to pick it up, posing an interesting question or making a claim bound to generate discussion. Also important, I think, was the Section's decision to add automatically all its members to the list. Expanded participation has only served to enhance the list serv's role as our central mechanism for intellectual exchange.

•The Law and Politics Book Review, founded by Herb Jacob, continues to perform a major service—not just for our Section but for the whole discipline—by providing e-book reviews in a *timely* fashion. While reviews of books published in 1998 are just now surfacing in the *American Political Science Review*, those for volumes issued as recently as six months ago are appearing in our e-mail boxes. This is a credit to Book Review Editor Dick Brisbin. Not only does Dick keep those reviews coming, but he has engaged scores of scholars—both here and abroad— in the effort, as well.

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Instructions to Contributors

General Information

Law and Courts publishes articles, notes, news items, announcements, commentaries, and features of interest to members of the Law and Courts Section of the APSA. **Law and Courts** is published three times a year in Winter, Spring, and Summer. Deadlines for submission of materials are: November 1 (Winter), March 1 (Spring), and July 1 (Summer). Contributions to **Law and Courts** should be sent to:

Cornell W. Clayton, Editor
Law and Courts
Department of Political Science
PO Box 644880
Pullman, WA 99164-4880
509-335-2544
FAX 509-335-7990
e-mail: cornell@mail.wsu.edu

Articles, Notes, and Commentary

We will be glad to consider brief articles and notes concerning matters of interest to readers of **Law and Courts.** Research findings, teaching innovations, or commentary on developments in the field are encouraged.

Footnote and reference style should follow that of the *American Political Science Review.* Please submit two copies of the manuscript; enclose a diskette containing the contents of the submission; provide a description of the disk's format (for example, DOS, MAC) and of the word processing package used (for example, WORD, Wordperfect). For manuscripts submitted via electronic mail, please use ASCII or Rich Text Format (RTF).

Symposia

Collections of related articles or notes are especially welcome. Please contact the Editor if you have ideas for symposia or if you are interested in editing a collection of common articles. Symposia submissions should follow the guidelines for other manuscripts.

Announcements

Announcements and section news will be included in **Law and Courts**, as well as information regarding upcoming conferences. Organizers of panels are encouraged to inform the Editor so that papers and participants may be reported. Developments in the field such as fellowships, grants, and awards will be announced when posible. Finally, authors should notify Sue Davis at suedavis@udel.edu, of publication of manuscripts.

•The Law and Courts newsletter has improved markedly over the years. At one time, it served (largely) as a simple communication device, alerting members of key dates and awards; today, it continues to perform that function but it now also provides a forum for serious intellectual discussion and debate. For this we must thank Cornell Clayton, who has done a remarkable job in elevating Law and Courts to new heights. Surely it now stands as one of (if not) the best newsletters in the discipline.

•Since its early days, the Section has acknowledged significant scholarly accomplishments via the conferral of awards. But the number of prizes has grown over time, such that we now present five. Next year, we will add a sixth: The McGraw-Hill award, "which will be given annually for the best journal article on law and courts written by a political scientist and published the previous year. Articles published in all refereed journals and in law reviews are eligible but book reviews, review essays, and chapters published in edited volumes are not. Articles may be nominated by journal editors or by members of the Section. The award carries a cash prize of $250."

Given the number and quality of nominees, selecting winners is a time-consuming and difficult task. Accordingly, we should express our sincere thanks to the 22 Section members who served on our 5 award and 1 nominating committees. (For this year's committee members and award winners, see page 23).

•Owing to the tireless efforts of Kevin McGuire and Rorie Spill, we are looking forward to an outstanding short course at the 2000 meeting of the American Political Science Association. About 40 graduate students and faculty already have registered for "Professional Development," and it has attracted substantial interest from the APSA. If you haven't signed up yet, it's not too late. Simply complete the registration form (page 27) and send it, along with a $10 check, to Reggie Sheehan.

•Speaking of the APSA meeting, division heads Roy Flemming (Law and Courts) and Gerry Rosenberg (Constitutional Law) have put together terrific panels—ones covering the range of theoretical, substantive, and empirical concerns in our field. All in all, over 200 faculty and graduate students will participate on one or more of the nearly 30 law-related panels and poster sessions. I am, as I know many of you are, especially delighted to see the number of panels (by my count, 11) that deal explicitly with comparative courts, law, or both. (For key Section events at the APSA, see page 26)

Challenges

As I hope even this brief review makes clear, 2000 has been a rewarding and exciting year for the Section. If the Section is to continue to thrive, however, we must now turn to the future and confront some important challenges. To me, these mostly center on connections among scholars in our field and specialists in others that we have yet to make or, at best, are only starting to make. Let me elaborate but be forewarned: I have far more questions than answers.

•*Connections among Political Scientists in the Law and Courts Field.* Our list serv and newsletter have, without doubt, worked wonders to foster connections among those of us taking distinct theoretical and analytical approaches to the same substantive topics—law and courts; at the very least, they have helped us to understand better, if not appreciate, particular claims and positions. And, yet, as I read articles published in Law and Courts and notes posted on the list serv, I can't help but think that we continue to talk past, rather than listening to, each other.

Can we overcome our (occasionally fundamental) disagreements? Should we attempt to do so? If yes, how might political scientists of different theoretical and analytical leanings combine their strengths to produce new and richer insights into law, courts, and judicial politics? What role can or should the Section play in this process?

I plan to put these and related questions to the Executive Committee at our 2000 annual meeting. If you have ideas, I'm sure the Committee would be interested. Simply email me (epstein@artsci.wustl.edu) or post a note on the list serv.

•*Connections between Political Scientists and Members of the Legal Academy.* Over the past few years, more and more law professors have joined our Section, play various roles in our activities, and participate at our panels. I, for one, applaud this trend, for I think we have much to gain from interaction with our law colleagues.

If Section members agree, then perhaps we ought consider mechanisms designed to induce even greater interaction. I have a few ideas along these lines that, again, I hope to discuss with the Executive Committee. Of course, I would be very interested in hearing yours.

•*Connections between Law/Courts Specialists Here and Our Colleagues Abroad.* Roughly 10% of all panelists and poster presenters on law-related sessions slated for the 2000 APSA meeting are affiliated with universities outside the United States. And this figure represents just a small sample of scholars throughout the world who share our interests.

While building connections to our counterparts elsewhere always has been important, it may be even more so today—what with so many of us interested in comparative law and courts. Since conducting such research "should involve more than academic tourism…[and] more than picking a place on a map and sending forth agents to bring back data," as Kim Lane Scheppele recently observed, many of us lacking local knowledge desire to develop relationships and, perhaps, collaborations with colleagues abroad. (For more on this point, see Kim's excellent contribution in the last issue of Law and Courts.)

What steps can the Section take to facilitate these connections? Are we best off working with existing groups and centers or ought we undertake independent activities? In this day and age of electronic communication, it should not be altogether difficult to devise answers; translating them into solutions and implementing them effectively, however, will present many challenges.

•*Connections between Law/Court Scholars and Specialists in Other Fields.* In an essay Greg Caldeira and I wrote 6 years, we suggested that the "study of courts and law is in danger of becoming marginal to the discipline…In fact, our general sense is that other political scientists view us and our concerns as an enterprise somewhat disconnected from the core of the discipline." Undoubtedly the situation has improved since 1994—with the integration of courts into separation-of-powers models one example—but we still have some distance to go. I am disturbed that only a handful of the some 100 APSA panels listed in comparative divisions (11-15) touch on courts and law. And I am equally concerned about the lack of attention our substantive interests receive in work conducted by political methodologists; indeed, it is the rare statistically-focused paper that takes advantage of the rich data bases we have to offer.

If we believe that comparativists and methodologists, to name just two, can gain as much from interaction with us as we can from them, then the lack of these connections creates a lose-lose situation. How can we turn it into a win-win? With regard to our colleagues in comparative, we are hoping to involve them in the Section's 2001 short course, which will focus on law and courts abroad. But surely there are other ways to bridge the existing gaps, and the Executive Committee will explore them at our September meeting

A long list of challenges, I know. Yet I can't help but feel that they we can meet them, for no other Section, in my estimation, has been as innovative (and relentless) as ours. This is a credit to all you who have labored unselfishly in the past and continue to do so. I have already expressed our collective debt of gratitude to Howard, Cornell, Dick, Kevin, Rorie, Gerry, and Roy. But let me end with our appreciation to the members of the Executive Committee— Dick Brisbin (again), Susan Burgess, Shelly Goldman (incoming chair), Mark Graber, Stacia Haynie, Kevin McGuire (again), Barbara Perry, and Reggie Sheehan—all of whom devote countless hours to keeping our Section as vibrant as it is.

THE BANALITY OF DIVERSITY

MARK GRABER
GOVERNMENT DEPARTMENT
UNIVERSITY OF MARYLAND

Diversity is the great conversation stopper in public law, political science and the academy. Scholars are allowed to celebrate the virtues of their discipline, field, or particular research agenda. Public declarations that some disciplines, fields or research agendas are more important than others, however, are met by stern reproach. "Let a hundred flowers bloom." End of conversation.

Some flowers should not bloom. No one thinks the *American Political Science Review* should publish or law and courts panels at national meetings should include my spouse's study of comparative psychotherapies,[1] my teenage daughter Naomi's ninth grade essay on progressivism, my teenage daughter Abigail's eighth grade attack on the fugitive slave law or my teenage wannabee daughter Rebecca's fifth grade picture book on New Hampshire. Inclusion would promote diversity. My spouse's distinguished work, however, is not political science and my daughters do not yet write professional quality political science. "Let a hundred flowers bloom" means that we should allow only flowers to bloom, not trees.

The difficulty is distinguishing flowers from trees or professional quality political science work from work that is not professional quality political science. While members of the law and courts section probably agree about the above examples, we have substantial disagreements over what is professional quality political science. We dispute whether a work is good political science scholarship as opposed to mediocre or bad political science scholarship, and whether a work is political science scholarship as opposed to some other form of scholarship. We dispute what works are or should be central to scholarly debate in political science and public law.[2] We may agree in a descriptive sense that faculty employed by a political science department are political scientists and that the *American Political Science Review* is a political science journal. When conversation turns from description to evaluation, however, members of the law and courts field often find they lack meaningful consensual standards for distinguishing good work from bad.[3] The Chair of the law and courts section regards as "trivial" the legal understanding of judicial decision making that characterizes work being done by members of the public law field who hold high offices in the section, obtain jobs at leading research universities, win scholarly awards, consistently present papers at national conventions, and publish with the leading university presses and academic journals.[4] She is not unduly pedestrian. Many leading legalists regard as trivial work being done by other members of the public law field who hold high offices in the section, obtain jobs at leading research universities, win scholarly awards, consistently present papers at national conventions, and publish with the leading university presses and academic journals. Professor James Gibson once declared, "[a]lthough eclectic approaches to judicial politics may be desirable, there is ample room for consternation among those who favor scientific inquiry as a superior means of knowing about things judicial." My preferred version of that sentence is "although so-called scientific approaches to judicial politics may be desirable, there is ample room for consternation among those who favor humanistic inquiry as a superior means for knowing about things judicial."

When Professor Gibson or I call for diversity, we mean to foster only all research methods we think reliable on all subjects we think important. Whether a new piece of work diversifies the field depends on whether that study meets our existing standards for good scholarship or persuades us to change those standards. We agree that the public law field should not diversify by fostering bad or trivial scholarship. Alas, in too many instances we dispute what constitutes good scholarship and are often unwilling to defer to what we think are the mistaken standards for good scholarship held by many other field members.

This essay opens a conversation on diversity in public law among people who disagree on what constitutes good public law scholarship and on what constitutes public law scholarship. No passage attempts to referee the substantive differences between Professor Gibson and myself, between different models of judicial decision-making or between any two schools of public law thought. My concern is more with the rules of fair combat or mutual accommodation. How should we treat works by professionally credential members of our section that nevertheless do not meet what we believe to be professional public law or political science standards? What is the appropriate stance to take towards a well recognized school of legal thought that one believes has run out of important insights or never had important insights? A simple demand for a fair hearing is insufficient. Published work in respectable outlets should not be dismissed as nonsense until every effort is made to understand why reasonable persons might think the argument sound. Deliberation, however, may increase animosity rather than respect. Whatever the merits of a fair reading of *Mein Kampff*, one hopes

that the end result will not be a greater willingness to tolerate and foster antisemitic thought in public law. Many members of the field similarly reach fair, good faith judgments about what constitutes good scholarship that exclude the scholarship done by respected members of the field. Legitimate and serious disagreement exists in our field on the value of the behavioral revolution, the pragmatic turn, and other influences on public law research. Some scholars celebrate approaches that others find mindless or unscientific.

These disagreements present many professional challenges. When developing a syllabus for a graduate course in public law, to what extent should the readings reflect what the professor believes are the most important works of public law or represent what different public law scholars believe are important works? Should students be exposed to all schools of public law or only those schools whose work the professor considers valuable and worth emulating? Many scholars refuse to consider for a national prize work in a particular genre merely because they think that members of that school of thought use faulty methods or because those methods are more appropriate for historians or economics than political scientists? What steps may we legitimately take to increase scholarship we regard as original, rigorous, and important, while limiting scholarship we regard as redundant, shoddy and trivial? Do we have obligations as members of the public law field to celebrate all work done by field members or at least allow our judgments to be influenced by prevailing practices in our heterogeneous section?

For some people in some contexts, these disputes over what constitutes good political science scholarship are, well, academic. To paraphrase Thomas Jefferson, it does a tenured professor no harm knowing that neighbors are engaged in mindless number crunching or unscientific story-telling. Public law scholars sometimes write as if the field was composed of seven persons or less, so that if five were engaged in research perceived to be fruitless, numerous vital areas would be overlooked. With almost 900 persons belonging to the law and courts section, little reason exists for thinking that important areas of research are being ignored. Most members of the field find that many people are doing valuable research, even as they also think many people are writing about matters of little interest to scholars or are (ab)using methods. Those of us who are tenured at respectable institutions have typically found respectable outlets to present and publish our thoughts even as we complain that other respectable outlets seem hostile to those ruminations.

Still, diversity questions arise that cannot be resolved by proudly declaiming, "let a hundred flowers bloom." To begin with the obvious, a high percentage of the field are either not tenured or not tenured at institutions they find satisfactory. The difference between the sort of articles that routinely appear in *The American Political Science Review* and the *Harvard Law Review*, a minor inconvenience from my selfish perspective, may threaten the career of an assistant professor who does doctrinal analysis in a department that insists on publication in those peer reviewed journals that have a tradition of hostility to doctrinal scholarship. Happily tenured professors who teach courses, referee scholarship, organize panels, serve on prize committees, and participate in section politics consistently make important decisions both about what is good public law scholarship and what is the range of legitimate public law scholarship. Good public law and legitimate public law scholarship are not identical. A person who believes that professors at private schools produce almost nothing of value (substitute your bete noire here) may nevertheless believe that since approximately half the members of the field teach at private schools, a reasonable percentage of the papers given at the APSA's national conference ought to be given by professors who teach at private schools. Moreover, there may be a difference between good legal and good political science scholarship. When considering paper awards, may we reject what we think is an excellent piece of legal scholarship on the ground that it is not public law scholarship?

Two Problems

The following two exercises explore the meaning and limits of diversity in a political science/public law community where the standards and boundaries of the field are contestable and contested. The first, the astrological model of judicial behavior, raises questions about what should count as acceptable public law scholarship. The second, the John Marshall Symphony, explores what scholarship should count as public law scholarship. Astrological explanations of judicial behavior and symphonic interpretations of legal opinions would add to the diversity of the field. The issue is when and whether these works should be understood as political science or public law scholarship.

1. The Astrological Model—Suppose one day you received a paper claiming that Supreme Court decision making for the past thirty years is best explained by the relative position of several obscure constellations. The paper is not a satire on some school of public law. The author does not use or even abuse any methodology you respect. The style and method of argument seems identical to that found in most supermarket tabloids. Surely, this paper is an easy reject in any context. You would not accept this paper for publication in any serious journal, you would not permit this paper to be presented at any conference,[5] you would not assign this paper in any graduate or undergraduate class you could imagine teaching, you certainly would not award this paper any desirable professional prize, and you would not want the author of this paper to be a colleague. This is not a flower that ought to bloom in public law.

Complications occur when much to your surprise and distress, a minor cottage industry on the horoscopes of Supreme Court justices develops within political science and public law. A survey taken five years after you rejected what is now considered the seminal work of legal astrology reveals that approximately one quarter of the scholars who belong to the law and courts section are researching astrological explanations of judicial behavior. Worse, astrology is no longer confined to judicial decision-making, a subject you recognize to be of interest to political scientists. Now you find articles in the *American Political Science Review* using the position of obscure constellations to predict the love life of state justices. Not only do you think political scientists have no interest in the love life of state justices, but astrological works on that subject in your opinion say nothing that was not said in previously published work using obscure constellations to predict the love life of federal justices.

Other fields of political science have been similarly infected, though some more than others. Astrologers are fairly well represented in all aspects of professional life. They publish in the best university presses (or what you formerly thought were the best university presses) and in many prestigious political science journals, deliver papers at the major conventions, obtain positions at leading universities, and win national prizes. Astrologers are not equally represented in particular political science vehicles. Just as some publication outlets are presently more or less biased towards certain forms of research, so some publication outlets are far more sympathetic than others to astrological methods than others. Of the two journals you had thought best before the astrological invasion, one almost never publishes astrological articles, while the other has become a leading vehicle for astrological explanations for Supreme Court decision-making.

Your views have not changed. You and your closest professional associates continue to believe that astrologers have little or nothing to say of value to political scientists or students of public law. You do your best to examine your notions of good political science for bias. You read the seminal works of astrology and attend an occasional panel sincerely trying to understand why serious scholars would pursue this research. Nevertheless, you remain in the end convinced that astrological methods add nothing to public law. Astrologers, you conclude upon long reflection, do not improve knowledge about judicial decision-making. In your opinion, their increasing emphasis on the love life of judicial officials is of no importance to political science and astrological essays predicting the love life of some judicial officials largely repeat the conclusions of previously published astrological essays on the love life of other judicial officials.

What has changed is that your views on astrology no longer reflect a deep consensus within political science and public law. Many distinguished scholars, not only astrologers, believe that this new school of thought has something to offer scholars. You were considered rather small minded when you attempted to set up a distinctive professional group that would exclude astrologers. In this environment, do you treat astrologers and their works any differently than you did when no one thought legal astrology of any value? Do you still automatically reject legal astrology when assigning readings to students, making hires in your department, accepting papers for publication or for conferences, awarding professional prizes, or nominating persons for section offices? Do you recognize as prestigious presses and journals only those holdouts that publish little or no legal astrology. Are there occasions when as a member of the public law section you must treat legal astrology with equal concern and respect? What does it mean to treat what you believe to be academic nonsense with the same concern and respect you show works that meet what you believe to be the highest standards of political science/public law scholarship?

The appropriate way to diminish the hold of legal astrology on the public law field in my judgment is by publishing devastating refutations of astrological claims or, perhaps better, demonstrating that other approaches to judicial decision making offer more original and important insights. You have no obligation to treat astrology sympathetically or ever cite legal astrologers in your work merely because other scholars have concluded that astrologers help explain judicial behavior. Scholarly work should expose or ignore bad work. Proponents of astrology have no right to complain that you fail to respect the diversity of the field when you claim that their work is unoriginal, shoddy, or trivial. They, in a sense, also fail to respect the diversity of the field when they declare, implicitly or explicitly, that persons who condemn legal astrology fail to meet the standards of good scholarship.

Legal scholarship, like law, is always jurisgenerative and jurispathic.[6] Influential works strive to open up new lines of inquiry and to foreclose others. New work never adds to public law knowledge in a pure cumulative sense. Rather, the best scholarship corrects past mistakes while suggesting better lines of investigation. Academic etiquette may insist that such disagreements be phrased politely, that legal astrologers or scholars doing work of similarly perceived value not be called ugly or stupid. But in the marketplace of intellectual ideas we can refute claims that our work is trivial or shoddy only by making the best arguments for our rigor and importance, and not by accusing our rivals of a failure to respect diversity.

The astrologists have a better claim to section goods. Section goods belong to members of the section. If there is a membership requirement other than paying dues, that requirement ought to be admission to graduate work in political science, acceptance of a faculty job in political science, or a history of recog-

nized political science publication.[7] Individual universities and political science departments play the primary gatekeeping role determining who is qualified to teach public law. Journals and university presses play secondary roles. The law and courts section should largely recognize and ratify decisions made by these authorities. If legal astrologers are teaching public law at good colleges and universities or publishing in what were formerly considered the best political science outlets, they ought to be full members of the law and courts section, no matter how controversial, even unacceptable their research is to many other public law scholars.

Diversity matters very much when section resources are allocated. All schools of public law ought to be represented both as decision-makers and beneficiaries in the distribution of such section goods as participation on panels at conferences, including representation on panels intended to provide diverse perspectives on some public law question, publication in the section newsletter, prizes for scholarship, and membership on section committees. When section goods are distributed, presses and journals cannot be devalued merely because they are the primary outlets for work you believe to be public law nonsense. Cheating is permitted at the margins. As long as responsibility for panels and prizes is rotated, little harm and some benefit may result when legal astrologers and members of other schools of public law favor proponents of their preferred methods in close cases. Still, section goods ought to be divided in ways that are indifferent to the disputes that take place among section members over quality standards for political science scholarship.

If the section is operating fairly, legal astrologers ought to hold section offices and be winning section prizes in approximate proportion to their number. Past nomination committees have acted properly by considering service to the section in general and leadership in some school of public law as the primary qualification for section office. Rough quotas and rotation may be appropriate to ensure diversity over time in section office and committees. Most significantly, service in section office or on any committee should not be understood as validating any research method, only an acknowledgment that the research method is popular among many section members. More controversially, prize committees should not consider the relative merits of different research methods used by many students of public law. A public law scholar who is unwilling to award a paper or book prize to an astrologer or who cannot distinguish good astrology scholarship from bad should not be placed in a position to influence section awards. If a member of a prize committee reads what he or she thinks will be a seminal piece of legal astrology and no other work submitted is likely to be so accepted, the prize ought to go to the work of legal astrology. Put differently, section awards should go to the best examples of a particular research method, not to the best practitioner of what the awards committee thinks is the best research method. Work that appeals to more than one research tradition should be preferred to work narrowly in one genre, but no inherent reason exists in this hypothetical universe to prefer a behavioral/legal model to a legal/astrology model.

The hiring and promotion process, teaching and refereeing require more complex judgments. No department or university has an obligation to hire or consider legal astrologers when a broad consensus exists in the department or university that such work is not sound. Faculty, however, have the right to work within any genre widely practiced in the academy. If a scholar converts to legal astrology after hiring and the leading legal astrologers declare that scholar is worthy of tenure, the scholar should be tenured. We have some obligations to inform graduate students that legal astrologers exist, but that is the extent of the obligation. Graduate education should include some survey of the field if for no other reason than future members of the law and courts section need to know that legal astrologers are out there. Still, our primary mentoring responsibility is to foster sound scholarship, not reproduce the field. Legal astrology, thus, is entitled only to a small place on our syllabi. The bulk of pedagogical attention should be paid to work the professor regards as sound, important and suggestive of fruitful lines of research. Graduate students interested in matters a professor believes unsound should be bluntly informed to study elsewhere. Undergraduates who produce a sound essay by legal astrology standards, however, probably deserve the same grade as students who adopt the same research methods as the professor. Finally, we are not obligated to recommend publication of pieces we believe to be nonsense. Still, fairness to both authors and editors require that reviewers clearly distinguish between pieces they reject as insufficiently sound examples of a particular genre, and pieces they reject on genre grounds alone. "I do not like astrology," is not a reason for a journal to reject an essay when numerous members of the section sponsoring the journal believe the research method sound.

The general rule of thumb is that persons acting on authority from the public law section, the national political science association, or local political science associations should respect as serious scholarship all scholarship published by political science journals or labeled as political science by university presses. Persons acting in a purely private scholarly capacity, by comparison, should treat as serious scholarship only works that meet their best standards for serious scholarship. Persons with some other obligations to represent public law standards, for example, a professor teaching a core course on public law, have some obligation to consider what is conventionally considered political science, but are freer to interject more normative standards for public law scholarship. The bottom line is that if our work is called "shoddy," "trivial," or whatever, the only response is to produce work that our contemporaries and the next generation will regard as rigorous and important. We can

ask our section officers qua section officers to give us the equal opportunity to present our work to other scholars. We cannot ask our fellow scholars qua fellow scholars to take our work seriously for any reason other than they find our work serious.

2. The John Marshall Symphony—A student proposes to write as a dissertation the John Marshall Symphony with you as dissertation supervisor. Unlike astrological works, you have reason to believe that the student will produce a piece that meets professional standards. Many great musical compositions commemorate famous events or persons. You would not, however, have awarded Aaron Copland a PhD. in political science for writing the Lincoln Portrait. The Lincoln Portrait is not bad political science. It is good music and not political science at all. What, therefore, must be in the prospectus for you to regard the John Marshall Symphony as a potential work in political science and public law. Do you simply refer the student to the music department? Might conditions exist in which you would serve as an advisor to this music dissertation? Might this even be a political science dissertation? If this is a political science dissertation, what musical standards, if any, must the work meet?

Life will be simple if in addition to being a professional work of music, the dissertation with the music removed clearly promises to be a work of professional political science. Suppose the proposed symphony has four movements: *Marbury v. Madison*, *Fletcher v. Peck*, *McCulloch v. Maryland*, and *Gibbons v. Odgen*. The score for each movement will be accompanied by a lengthy essay offering an interpretation of each decision and an explanation as to why the music reflects that interpretation. If the essays offer an original interpretation of John Marshall's judicial opinions, the dissertation project is obviously a reasonable one in political science. That the project as a whole may also meet the requirements for a PhD. in music no more detracts from the merits of the project as political science than the possibility that another dissertation you are supervising may meet the PhD. requirements in history or economics. No one would reject a dissertation that met the standards of both political philosophy and comparative politics. Why should a dissertation that independently meets public law and music composition standards stand on any different footing?

Tougher issues arise when the political science or public law features of the John Marshall Symphony denuded of the music connection may not seem to be professional political science scholarship. Questions may arise as to whether the subject of the dissertation is sufficiently connected to what political scientists study to make the project a political science project. At the obvious extreme, merely giving a piece of music the title, "John Marshall Symphony" does not make the composition a piece of public law. Moreover, either the music or the political science aspects of the project may not meet the standards of professional political science. "There is always the danger," Martin Shapiro declares, "that the political scientist who works on forestry will be considered a wonderful political scientist by foresters and a wonderful forester by political scientists." In his view, "interdisciplinary work ought to meet the standards of two or more disciplines rather than the standards of none."[8] Given the difficulty of achieving this standard, public law students may be best advised to stick with public law.

Shapiro's critique of interdisciplinary research is puzzling. One could question the comparative studies Shapiro has been doing using the same logic. There is always the danger, after all, that a person who compares the American and French legal systems will be considered an expert on the American legal system by experts on the French legal system and an expert on the French legal system by experts on the American legal system. This logic can be carried to an extreme that rules out all projects. A person who wishes to write on both sections of *McCulloch v. Maryland* might be considered an expert on the bank issue by experts on the tax issue and an expert on the tax issue by experts on the bank issue. Persons who do more general projects always risk knowing less about one aspect of that research than scholars who focus exclusively on a particular detail of the general phenomena. Perhaps because political science is treated as a distinct discipline and public law as a distinctive field, some reason exists for thinking that a person who knows something about one field of political science or public law will be able to master other aspects of political science or public law. Still, a person who has done extensive course work in music and public law may be able to write a John Marshall symphony that is as competent as a game theoretic analysis of Marshall Court decisions written by a person who has done extensive course work in formal theory and public law.

Raising the bar too high for interdisciplinary scholarship will rule out valuable research projects. Important questions on the politics of forestry will never be explored if meeting both professional political science and forestry standards is too difficult. The better demand for interdisciplinary research is Aristotle's adage that we can only have as much certainty as subjects admit. Some subjects may be so complex that nothing of intelligence can be said at the moment. Still, scholars ought not to avoid researching on important questions merely because the level of certain presently attainable is less than research on more mundane subjects can achieve.

These observations suggest that a political science professor asked to decide whether to supervise the writing of the John Marshall Symphony should consider two factors. First, has the student explained why this is a project worth doing? Many good reasons might exist for an attempt to capture in music an interpretation of the seminal opinions in constitutional law. The dissertation may increase popular awareness and understanding of those opinions. Scholars may better appreciate possible

relations and distinctions between music and legal prose. Assuming the project is worth doing, the academy needs to be organized in ways that ensure the project can be done. If traditional disciplines cannot house the project, alternatives to traditional disciplines need to be established. Second, is the student doing a project relevant to your expertise? If the student seriously wishes to set John Marshall's legal opinions to music and wants help analyzing those opinions to see what form of music is correct, then a person with expertise in Marshall's opinions will help the project. If, however, the John Marshall Symphony merely honors Marshall by the use of the name, expertise in Marshall's thinking is not likely to be useful.

The one question I would not ask is whether the project will be a work of political science or music. Political science and public law are best treated as useful administrative conveniences. People commonly labeled as political scientists or students of public law tend to have more intellectually in common with each other than with scholars labeled differently. Having a distinctive political science department, distinctive political science journals and a distinctive political science professors facilitates sound scholarship. Still, many scholars commonly labeled political scientists have interests and use research methods that overlap with historians, law professors, economists, and other disciplines, perhaps even music. As long as these relationships are improving knowledge about important matters, they should be fostered, not handicapped by attempts to draw precise lines between fields and disciplines. The composer of the John Marshall Symphony will likely improve both music and political science. Analysis determined to explain whether the composition is music or political science is less likely to benefit either discipline.

Both legal astrology and the John Marshall symphony are high risk research projects. If successful, they will fundamentally alter the terrain of public law, political science and scholarship. More likely than not, those who engage in this research will fail to produce much of academic value, or at least of distinctive value to political science and public law. The more common calls for diversity in public law are for lower risk projects. Comparative judicial politics is promising terrain for young scholars because little doubt exists that new insights can be garnered using shopworn behavioral or institutional research methods. Fields do not grow, however, by normal science alone. Promoting diversity in public law and political science may mean that behavioralists, legalists, and others should be taking more risks than any of us older codgers do at present. The projects that will define public law for the future will redefine what we think of as good scholarship or what is public law, and not merely apply tools that worked on one neighborhood to the next block over.

Howard Gillman and Cornell Clayton greater improved the clarity of this essay even as, I am confident, they strongly disagree with many of the tenative conclusions.

References and Notes

[1] Jerome Frank and Julia Frank. 1993. *Persuasion and Healing: A Comparative Study of Psychotherapy* Johns Hopkins University Press: Baltimore, Maryland. (Some husbands give flowers. I find absurd excuses to increase my wife's cite count.)

[2] We also dispute what constitutes diverse political science scholarship. This essay is limited to questions associated with the external boundaries of political science scholarship. Similar questions might be raised concerning how to establish internal boundaries within political science and public law. For reasons suggested in this essay, I find naked invocations of diversity in both contexts to be equally banal. What points of view or persons, for example, should be represented on a panel devoted to diverse perspectives on the Rehnquist Court or the use of judicial power in Asia.

[3] Agreement that public law scholarship should focus on important matters is meaningless in the absence of agreement on what matters are important.

[4] Lee Epstein, "The Comparative Advantage," *Law and Courts* (Winter, 1999), p. 3.

[5] Or at least at any conference where some proposed papers are rejected.

[6] See generally, Robert M. Cover, "Foreword: Nomos and Narrative," 97 *Harvard Law Review* 4 (1983).

[7] Serious problems would result if 1000 poets decided to join both the American Political Science Association and the law and courts section. Still, at present, only relatively few persons without traditional public law credentials are members of the law and courts section and they do not seem to have much influence.

[8] Martin Shapiro, "Political Jurisprudence, Public Law, and Post-Consequentialist Ethics: Comment on Professors Barber and Smith," 3 *Studies in American Political Development* 88, 96 (1989).

DISCIPLINARY STRUCTURES AND 'WINNING' ARGUMENTS IN LAW AND COURTS SCHOLARSHIP

PAMELA BRANDWEIN
DEPARTMENT OF POLITICAL SCIENCE
UNIVERSITY OF TEXAS, DALLAS

To what extent have disciplinary structures shaped the study of law and courts? Does "society" get into legal scholarship and academic legal knowledge and, if so, in what ways? These questions are worth asking because experience suggests that institutional pressures and forces work to privilege certain kinds of arguments, methods, and theories.

In the 1950s, a famous debate took place between two law professors, Charles Fairman and William Crosskey, over the history of the Fourteenth Amendment.[1] The question was whether the Amendment originally applied the Bill of Rights to the states. Fairman (1949) said "no." In denying incorporation of the Bill of Rights, Fairman buttressed the non-incorporation thesis staked out by the Supreme Court seventy years earlier. Crosskey (1954) argued that the Amendment did originally apply the Bill of Rights to the states, thus suggesting that the Court had been wrong all this time. Fairman "won" this debate handily in the 1950s and his account had a self-propelling quality until the mid-1980s to early-1990s. Since then, Crosskey's account has gained widening support.

As we look back at the Fairman/Crosskey debate, we can see the crucial role of cognitive factors in the assessment of empirical findings. But we can also see the mediation of these factors through social, hence contingent, processes. In explaining both the rise and decline of Fairman's history, we can see how definitions of "good" research are constituted by complex interactions among cognitive factors, personal networks, organizational pressures, and resource mobilizations.[2]

I use the Fairman/Crosskey debate to draw an analogy. Or more precisely, I use the debate to formulate a set of questions about how disciplinary structures might work in public law to privilege certain kinds of methodologies and theories. Several months ago Jonathan Cohn (1999) wrote a cover story for the New Republic in which he called attention to the rise of rational choice in political science.[3] He suggested that "intellectual maraud[ing]" rather than the merits of the work explained the ascendancy of rational choice.[4] He argued that the disconnection between rational choice models and real-world politics made rational choice models inferior.[5]

Cohn is useful here not because he casts aspersions on rational choice but because he begins to build institutional/organizational explanations for the rise of both behavioralism[6] and rational choice.[7] This aspect of his article deserves further elaboration. My goal here is to outline a study that would investigate the twentieth century history of law and courts scholarship. This study would cover the impact of behavioralism on legal scholarship. This study would also cover the more recent battles between rational choice institutionalism (also referred to as the Positive Theory of Institutions or PTI [Orren and Skowronek 1994] or the strategic approach [Knight 1992, Eskridge 1991, Maltzman and Wahlbeck 1996]) and interpretive-historical approaches (Smith 1992, Skowronek 1995, Gillman 1999).

The type of study I am proposing would not be a traditional history of science (traditional interpreters of the history of science have tended to explain victories of scientific approaches by their intrinsic merits). Neither would it be a conventional contribution to the state-of-the-discipline literature (see, e.g., Easton 1953, Dahl 1961, Eulau 1969) in which the author stakes out a position on the relative merits and strengths of traditional and behavioral approaches. And neither would it be like the Eulau and March (1969) review and appraisal of political science that was to provide "a basis for an informed, effective national policy to strengthen and develop [this] field even further."[8]

My approach would be drawn from the sociology of science and would map the trajectories of credibility that attach to competing methods and theories. This sociology of public law would attempt to reconstruct the institutional settings (scholarly networks, professional conferences, funding pressures, prestige hierarchies, faculty hiring committees, etc.) that give weight to certain methodologies and theories over others. In this way, "persuasiveness" would be investigated as both a cognitive and institutional product.

In the next section, I provide a very short discussion of the sociology of science. Following that, I use the Fairman/Crosskey dispute to provide a sketch of how one goes about investigating institutional competition among interpretive communities. This leads to the section in which I outline a sociological study of public law.

II. Science Studies

In science studies, scientific practice is treated as a form of work: with routines, uncertainties, organizational structure, power relations, and conflicts. Scientists are investigated as another sort of worker. Researchers in science studies have posed questions that are enormously useful in the sociological investigation of academic disciplines. These questions are about the processes of construction and persuasion entailed in the production of institutional knowledge: [9] How might institutional pressures influence researchers in choosing among various methods and theories? What strategies are used to sustain and reinforce the "rationality" of one's approach in the face of alternatives? What tactics and devices are successful in minimizing the possibility of critical intervention by others? What counts as legitimate avoidance of what might otherwise be regarded as insurmountable philosophical difficulties? In short, what is it in competing arguments/approaches/theories that render them more or less institutionally "credible" at any particular historical juncture?[10]

A major objective among science studies researchers is to refute the possibility of a distinction between "internalist" explanations of scientific change, which point to the natural unfolding of ideas, and "externalist" explanations of change, which point to societal and political factors (Shapin 1994). The success or rise of a theory is only partially dependent on the logical tenets of the theory itself: "The situations that create theories are not single experiments, or moments in individual biographies...[T]heories are the end result of many kinds of action, all involving work: approaches, strategies, technologies and conventions for investigation. The component parts of a theory become increasingly inseparable as it develops. They become thicker, or 'clotted'" (Star 1989:25).

In outlining how science studies methods can be used to investigate the social production of academic knowledge, I use the concept of "interpretive communities" as an anchor. Stanley Fish (1980) uses the term "interpretive community" to refer to sources of systems of intelligibility that enable and delimit the operations (thinking, seeing, reading) of extending agents. Shared assumptions identify, or define, individual scholars as members of an interpretive community. William Sewell (1992), a sociologist, would add that the "mental" work achieved in each community – e.g., choosing among strategies of symbolic construction and conventions for investigation – exists in a mutually sustaining relationship with actual resources.[11] In political science, resources range from NSF grants to pages in the APSR. Prestige is a resource as well, though a less tangible one. Positions of resource control include NSF funding committees, journal editorships, program committees for APSA meetings, hiring committees, and graduate curriculum committees.

I use the concept of interpretive community as an anchor in the sense that I focus my discussion on several dimensions and practices of interpretive communities. In sketching a picture of the Fairman/Crosskey debate, I identify networks among members, the members' interpretive frameworks, and the resource arrays that were mobilized. I also mention the common practice engaged in by dominant interpretive communities, namely, containing threats to institutional legitimacy, as legitimacy has been conceived.

III. The Fairman/Crosskey Dispute over 14th Amendment History

The initial success of Fairman's non-incorporation history can be partly explained by his institutional positioning. Fairman was part of a Harvard network, as were a number of other high profile contributors to the repudiation of Crosskey. One was Justice Felix Frankfurter, who condemned an earlier presentation of the incorporation thesis by Justice Hugo Black in the 1947 case *Adamson v. California*.[12] Frankfurter was mentor to Henry Hart who also had ties to Harvard. Hart (1954) wrote an influential negative review of Crosskey's 1953 book, severely damaging Crosskey's reputation as a historian, some of it deserved, some not.

Fairman's article became a source of authority on the Fourteenth Amendment for those who followed, including legal scholar Alexander Bickel. He was Felix Frankfurter's clerk and protégée. In a well-known article, Bickel (1955) offered a version of the legislative history of the Fourteenth Amendment as it pertained to school segregation. He simply cited Fairman's article. Crosskey's history had appeared a year earlier but, for Bickel, a simple citation to Fairman was sufficient. The matter was closed. In the world of academic law at this historical juncture, Harvard ties carried enormous prestige and Fairman was embedded in a Harvard network.

But Harvard ties do not explain how Fairman originally reconstructed history. Legal realist Felix Cohen (1935) emphasized that we need to know how judges think if we are to understand the actual processes by which legal outcomes are reached. Toward the end of understanding how legal scholars think, we must investigate interpretive frameworks.

We need to conduct a "frame analysis." Interpretive frameworks are webs of assumptions, interpretive conventions and symbols that work together and interact. Over twenty years ago, the famous sociologist Erving Goffman (1974) described frames as the basic elements that organize accounts of "what is happening." Frames also organize orientations to action. In this instance, the "action" is accessing the past, or reconstructing history. Frames are made available at cultural and institutional levels. That means, of course, that legal scholars like Fairman and Crosskey were constrained in terms of their access to interpretive tools. There is a menu of interpretive tools, as the competition between Fairman and Crosskey attests, though the choices are limited.

Of course, it must be established that frames are "real." How might that happen if empirical evidence of frames is not "objective"? (in the sense of quantitative). Fairman's other publications provide supporting evidence for claims that these categories of thought actually existed. In 1939, Fairman's well-known book on Justice Miller appeared.[13] In 1953, Fairman published a law review article, "The Supreme Court and the Constitutional Limitations on State Governmental Authority,"[14] which responded to Crosskey's first sketch of the incorporation thesis in his book *Politics and the Constitution in the History of the United States*. In 1954,[15] Fairman published a fairly brief response to Crosskey's detailed version of the incorporation thesis. In 1971 and 1987, Fairman published a two-volume set, *Reconstruction and Reunion, 1864-1888,* that appeared in the series, *A History of the Supreme Court of the United States*.[16] It can be deduced from the arguments in these sources that the same assumptions are operative. These deductions are certainly up for question, but scrutiny by other scholars should serve to increase the validity of this interpretive/empirical evidence.

Interpretive frames structured the many practices, or operations, that were involved in Fairman's and Crosskey's reconstructions. For example, a situation must be defined, a story must begin and "relevances" must be established. The elements that made up Fairman's and Crosskey's interpretive frames worked to structure where they looked for evidence of "original intent," when in history they began looking, and how they knew when they had found it (i.e. how they knew it when they saw it). In short, the play of symbolic structures that made up Fairman's frame and Crosskey's frame organized different definitions of "appropriate" investigative techniques and "faithful" readings. The same point can be applied to an investigation of law and courts scholarship today.

It is impossible, unfortunately, to briefly summarize the substantive reasons why Fairman's account was weaker. But Crosskey's incorporation thesis was not inherently unbelievable or irrational. His history brought attention to crucial dimensions of slavery politics that Fairman suppressed. But Crosskey's history was a breach that made visible some of the conventional ordering commitments of Fairman's interpretive community. What lawyers and judges "received" in Fairman's account that they did not receive in Crosskey's was, in general terms, a stabilization of the doctrine of stare decisis regarding Fourteenth Amendment history and an affirmation of state control over citizenship rights.

Crosskey's history posed threats. It raised the specter that 70 year-old precedent on the Fourteenth Amendment might be wrong. If 70 year-old precedent had to be uprooted, how could the doctrine of stare decisis, a basis of court legitimacy, be preserved? Crosskey's history implied that Court decisions that affirmed the non-incorporation thesis were influenced by a historically evolving politics. This tapped fears and insecurities generated by Legal Realism. In addition, Crosskey's history was not so easily contained (due to its very broad conceptions of rights and equality). This made it difficult to manage judicially.

Fairman's history, in contrast, resonated with an audience whose orthodox assumptions were under fire. His non-incorporation account reaffirmed 70 year-old precedent, which stabilized both stare decisis doctrine and the Newtonian conception of law in general. The non-incorporation account also kept the institutional version of Republican legislative objectives contained and therefore more easily manageable. Finally, Fairman's account affirmed the old tradition of state and local authority over personal rights, a tradition that was coming under threat from a New Deal court expanding federal control over rights. The "recipe" for producing acceptable legal readings for lawyers and judges who approved of Fairman's history included: weighting distrust of federal control over personal citizenship rights more heavily than distrust of state control over those rights.

Another significant factor was reputation. Reputation is one kind of institutional resource, and Crosskey's reputation had been badly damaged the year prior to presenting his account of the Fourteenth Amendment. A year prior to the publication of his Fourteenth Amendment history, Crosskey published his book, *Politics and the Constitution*, which earned him broad condemnation from the legal community.[17] It is highly likely that institutional audiences brought a negative assessment of Crosskey's competence as an historian to bear on their evaluation of his Fourteenth Amendment history.

Today, the book controversy is further removed from the incorporation debate, enabling Crosskey's 14th Amendment history to stand more independently from his earlier work. More important is the delegitimation of Reconstruction histories that were dominant when Fairman, Frankfurter, and

Hart were trained. The legitimacy that attaches to the historical work of Eric Foner (1986) and others distinguishes the institutional context of recent years. So does the establishment of a constitutional history (Graham 1968, Wiecek 1977) that resuscitated the Republicans of the Reconstruction era. Finally, the move toward inter-disciplinarity in legal studies has permitted legal scholars to rely on the work of Foner. This too has facilitated the resurgence of Crosskey.

IV. A Sociology of Law and Courts Scholarship

Now, it seems fairly safe to say that law and political science share a culture of "scientism." There are strong ideologies of Pure Science in both places. This makes it risky to ask questions about the institutional context in which behavioralism and later, rational choice, have risen to prominence. As Star comments (1989), "It is one thing to study prostitutes or addicts at some remove from the university, or to study a cult with few adherents. It is another to study the practice of what is, in fact, the dominant religion of one's own place of work…[I]t is not the case that all believers welcome such questions if the answers they provoke are unorthodox." Yonay (1999) relates a story about the reception of science studies in economics. At a conference dedicated to Lakatosian methodology in 1989, two prominent science studies researchers and a philosopher of science challenged Lakatosian models.[18] Yonay cites Weintraub (1991), who observed that conference participants were "not really comfortable with the reconceptualization these individuals offered about the enterprise of economic science" and chose to ignore it and not publish it in the conference proceedings. According to Weintraub, "[T]here are not many historians of economics who have an interest in the sociology of the economics profession."

One question for a sociology of public law is the extent to which a culture of Pure Science influences law and courts researchers to choose rational choice methods. The answer is unclear. Also unclear is the extent to which countervailing forces exist. A full-scale study that investigates the institutional structures in which arguments interact and compete for credibility would be required to answer these questions.

If the situation that created Fairman's "credibility" involved many kinds of action, so too did the situation that created the rise of behavioralism in the academic study of law and courts (Pritchett 1948, Schubert 1963).[19] The assumptions that generated behavioralism (and currently attitudinalism) were/are not self-evidently correct.[20] (It is also worth noting that the shift from old institutionalism [Haines 1922, Corwin 1934] to behavioralism occurred in the 1950s and 1960s, the same period in which Fairman's history was accredited and self-propelling. It is likely that this is not a coincidence for both involved practices of retrenchment. This parallel is certainly worth pursuing as it might shed light on the various ways institutional structures in public law have been connected to institutional structures in law schools and courts.)

In law and courts scholarship, critics of rational choice institutionalism have articulated the dependency argument. Gillman (1999) explains the sense in which strategic analysis is dependent on interpretive analysis. "[A]ll deliberate behavior...becomes understandable only in the context of particular purposes and preferences. In other words, before one can view institutional politics as a strategic terrain, it is first necessary to understand it as a normative terrrain." To an extent then, historical-interpretive analysis "makes rational-choice models possible" (Gillman 1999:76, citing Kloppenberg 1995).[21]

Moreover, attitudinalists such as Jeffrey Segal (1999) have found little empirical support for preference maximizing behavior when Court decisions are on the merits.[22] He argues that empirical evidence suggests that Court justices can almost always vote their unconstrained preferences in such decisions.

In disciplines like political science and economics, where ordering commitments are mainly positivist, indications that norms and beliefs are institutionally constituted (Gillman) are threatening (as Crosskey's history was threatening). Worries about the constituted nature of normative commitments remain unresolved. Likewaise, indications that maximization models might lack empirical support (Segal) are anomalies (i.e., they disconfirm basic assumptions).

In taking the stratification of scientific perspectives as an object of inquiry, science studies researchers have explored the subject of anomalies. Star examines the Kuhnian idea that anomalies act as catalysts of change. (Absorption of anomalies defines a Kuhnian paradigm. When "critical mass" is achieved, paradigms are overturned.) She finds that the more plastic theories are better at absorbing anomalies, and hence more institutionally successful.

To what extent is rational choice theory "plastic"? This question cannot be answered at present. Time will tell. What seems to be happening is that adherents of rational-strategic models are attempting to negotiate the meaning of disconfirming facts, arguing that rational choice theory is still young.[23] Another strategy might be to ignore Gillman and Segal for as long as possible. In order to catalog the various ways that anomalies are handled, it would clearly be necessary to conduct a full-scale study of the institutional structures within which these arguments interact and compete

for credibility. It is important (and fascinating) to track anomaly management, not only because it is unpredictable, but because management practices are important elements of sociological explanations for the rise (or fall) of particular theories or methodologies.

Thus, the arguments of various interpretive communities in public law must be analyzed for their assumptions and rhetorical strategies. Beyond this, academic discourse must be linked with resource distribution. A full-scale study of the institutional context in which law and courts scholarship is received and assessed would, first, have to establish the existence of interpretive communities. Membership in an interpretive community could be established through interpretive/empirical analysis of a scholar's set of publications. As with Charles Fairman, if a similar set of assumptions underlie all the scholar's work, that would be a good basis for assignment. Second, such a study would need to track the distribution of institutional resources over time.

What are the dimensions along which interpretive communities might be powerful (i.e., have access to resources)? At the risk of stating the obvious, those with influence over the distribution of resources include editors at journals, especially "top" journals. Their choices of anonymous referees are crucial as are the range of problems they choose to represent in the journal. Acquisition editors at university presses are also influential. Faculty hiring committees hold significant power. They can act, through the language chosen for job descriptions and through their choices among candidates, to encourage particular research agendas. It would be easy enough to track the kinds of articles published in journals. More difficult to get is information about scholar networks, inter-departmental negotiations, scholar-editor networks, and graduate student and editor selection processes. Scholar networks might be established by counting cross-citations and cross-acknowledgements. The other information, it seems, would have to be dredged up through interviews, and the interviewees would have to be candid. Given the highly politicized nature of this information, such openness among faculty members would likely be uneven.

Those who control funding are clearly quite powerful. Persons and committees in charge of NSF funding disperse prestigious grants, and the NSF has played a central role in establishing scientism in political science.[24] It is presumably easier to discover the identities of NSF grant recipients as well as the amounts of such awards than it is to get information about departmental politics.

Graduate admissions committees are powerful too. The graduate curriculum is important since curriculums might be made more mathematical or less so as a way of grooming the methodological choices of the next generation of researchers.[25]

To what extent are students asked to think about epistemological questions and the relevance of these questions for their own research? To what extent have programs retained a foreign language requirement (which works to teach students about the relationship between language, perception, and meaning)?

Planning committees for APSA meetings do not control money but their choices regarding program content and scheduling are symbolically important, especially when conference participation is expected for tenure and promotion. Who controls the Methods panels at national and regional meetings? Do members of one interpretive community mostly control these positions, or do members of various interpretive communities share these positions? What range of methods gets represented at national and regional meetings?

Another factor at play in the competition for resources is the level of support and/or resistance to interdisciplinary work. Resistance to such work might impede the production of research that would lend support to one or another kind of method in law-and-courts debate. Gauging this support/resistance is difficult. Perhaps one might count the number of citations to work outside the discipline that appear in journals. Job descriptions over the past years will hold clues about this level of support/resistance, as will the research agendas of recent hires (accessible both through interviews and their vitas).

V. Conclusion

The persistence of perspectives has rarely been analyzed operationally, at least outside statistics (Star 1989). According to Star, perspectives and/or theories become stratified through a "dense interweaving of commitments, heuristics, rationalizations, and truths" (1989). And successful theories exhibit a certain amount of inertia. This is because theories reflect commitments to work practices that are not easily changed. Thus, in explaining the current stratification of theories and methods in public law, we must look not only to their intrinsic merit but also to the "dense interweaving" of factors above.

Are institutional factors and pressures inhibiting the positive reception of either (both?) Gillman-style theory and Segal-style empiricism? The extent to which the merits of the interpretive-historical approach will win it credibility is as yet uncertain.[26] The same can be said for Segal's point about the lack of empirical support for maximization models. For change to occur (i.e., for interpretive-historical/science studies methods to gain credibility in law and courts scholarship), the payoff for abandoning rational choice must be higher than the payoff for keeping it. There is, as Star (1989) observes an asymmetry involved here. The payoff from future research

is always uncertain, and what one has in the present, though it may not be perfect, is at least known and tried. Thus, future trajectories of credibility are uncertain.

We need to investigate the many kinds of action that created the situation in which the prominence of rational choice institutionalism was established and has been maintained. Using Star's words, we need to examine how the "component parts" of strategic-rational methods became "increasingly inseparable" or "clotted." This involves investigations of the type described above. Fairman's history was an object constituted within institutional and social networks; so too is Crosskey's history today. Likewise, both strategic-rational choice arguments and interpretive-historical arguments are mediated through social/institutional processes.

Finally, it is easy for participants in scholarly debates to forget that they are contributors to a discourse (this goes for me as well as everybody else). Debaters most certainly understand themselves as proponents of a "more true" thesis. However tempting it is to think that we need sociological studies of only "bad" or "false" knowledge, we should subject "credible" and "persuasive" answers to sociological analysis as well. Our individual certainties that we have "more true" answers are products of our belief systems, and it is impossible for any of us to step outside our beliefs. We might subject some portion of that belief system to scrutiny, but as I said earlier, some set of assumptions not subject to reflexiveness is necessary for consciousness and action. Also, the meaning/value of empirical findings is always negotiated socially and mediated institutionally. Thus, it is appropriate to investigate the institutional pressures and forces working on behalf of the approaches/methods we favor, as well as those we do not.

Notes and References

1 I examine the narrative competition between Fairman and Crosskey and the institutional reception of their histories in Brandwein 1999:96-154.

2 One may acknowledge the complex social contingencies of both Fairman's initial victory and Crosskey's resuscitation and still say there is progression in 14th Amendment historical research. Ignorance of 14th Amendment history may have been reduced since the 1950s, but current knowledge cannot claim to be final or conclusive.

3 According to Cohn (1999), "Today, the ascendancy of rational choice is evident in its domination of professional journals (one recent count put the percentage of rational choice articles in the *APSR* at about 40 percent), in the increasingly mathematical curriculum standards for graduate students, and in the respect rational choice scholars command in faculty hiring."

4 Says Cohn (1999), "If you ask [Kenneth] Shepsle, [Keith] Krehbiel, or their fellow rational choicers how they've gotten so far so fast, they will tell you it's simply because they are that good—and because they are the only ones in the field who carry out work that qualifies as science. 'We're a handful of people,' says Bruce Bueno de Mesquita. 'The reason it appears to be this dominant thrust is because the clarity of work attracts attention.' But critics say it's the scholars' strong-arm mentality, not their strong scholarship, that has propelled rational choice this far."

5 Cohn (1999) acknowledges but downplays certain merits, e.g., Arrows Impossibility theorem (which showed that democratic systems do not inevitably conform to the wishes of the voters since voters choosing from among 3 + alternatives may be unable to consistently build a majority behind one), the Median Voter theorem (which holds that in an electoral system with two parties, the two tend to merge until they meet at the views/interests of the median voter), and a conceptualization of the "free-rider" problem (the tendency of people to seek the benefits of membership in a group without incurring the burdens). Citing Green and Shapiro (1994), Cohn argues that "rational choicers made the same series of mistakes over and over again—all of them rooted in dubious assumptions and oversimplifications calculated to make political behavior conform to neat mathematical formulas."

6 Discussing the reasons for the rise of behavioralism in political science, Cohn (1999) cites two major things. The first was a post World War II shift away from the Progressive era emphasis on reform that characterized professional societies in economics, sociology and political science. After World War II, a different kind of professionalization took hold. This had cultural roots but it also "reflected the fact that foundations and the government were underwriting ever-larger shares of university research budgets in an effort to allow scholars to pursue truth without feeling obliged to conduct research that might be popular with corporations or private individuals." A second reason was "a severe inferiority complex" among political scientists due to the fact that "economics was gaining ever more prestige for its increasing reliance on mathematics. Such prestige brought perks—particularly when it came to issues of department funding—and, increasingly, political scientists were jealous." Claims to pure science, then, brought prestige and funding.

7 According to Cohn (1999), several things explain the rise of rational choice. First, there was unity among the rational choicers. "They cited each other's papers, even if they didn't all agree on the conclusions….[and] [w]ithin fragmented faculty departments, their ability to stick together and agree on criteria for success allowed them to alter curriculum requirements for graduate students and establish litmus tests for faculty hiring." Second, there were the "hapless traditionalists who lacked the cohesiveness or savvy to stand in the way." Third, an "advantage of rational choice scholarship was that it lent itself so easily to new research projects."

8 Their study was one of a series prepared in connection with the Survey of the Behavior and Social Sciences conducted between 1967 and 1969 under the auspices of the Committee on Science and Public Policy of the National Academy of Sciences and the Problems and Policy Committee of the Social Science Research Council.

9 See Woolgar (1981:67-82) and Latour (1987:45-62).

10 In emphasizing the contingent, never-conclusive status of current knowledge, Heinz Eulau's comments on the agenda of behavioralism in political science are not that far removed from the contingency claims of science studies researchers. "[Behavioral science] knows no limits because the method of science does not know final knowledge. Here inquiry is undertaken to reduce ignorance as to discover truth. *What knowledge emerges is assumed to be partial, possibly temporary, contingent on the state of science, and always probabalistic*. As science reduces ignorance, it may know what is not the case; it does not arrogate to itself the knowledge of the truth" (1969:19, emphasis added).

11 Sewell has conceptualized social structures as sets of mutually sustaining sets of "virtual" mental schemas and "actual" resources.

12 332 U.S. 46 (1947).

13 Fairman, Mr. Justice Miller and the Supreme Court, 1862-1890 (1939).

14 Fairman, "The Supreme Court and the Constitutional Limitations on State Governmental Authority," 21 University of Chicago Law Review 40 (1953).

15 Fairman, "A Reply to Professor Crosskey," 22 University of Chicago Law Review 144 (1954).

16 Fairman, Reconstruction and Reunion, Part I (1971) in 6 History of the Supreme Court of the United States (Paul A. Freund ed., 1971); Charles Fairman, Reconstruction and Reunion, Part II (1987) in 7 History of the Supreme Court of the United States (Paul A. Freund & Stanley Katz eds., 1987)

17 See, e.g., Julius Goebel, "Ex Parte Clio," 54 Columbia Law Review 450 (1954); Henry M. Hart, "Book Review, Politics and the Constitution," 67 Harvard Law Review 1439 (1954); and Irving Brant, "Mr. Crosskey and Mr. Madison," 54 Columbia Law Review 443 (1954).

18 Today, scientific change tends to be explained in one of two ways. In the Lakatosian model, there are gradual shifts from degenerating research programs to progressive ones. In the Kuhnian model, anomalies accumulate until a revolution occurs. Science studies researchers find conceptual problems in both models. For a brief discussion of these conceptual problems, see Yonay (1999:8-14). Yonay uses a science studies approach to investigate the history of economics.

19 Clayton (1999:22) and Gilman (1996-97:6) both make the point that even at the height of the behavioral period there were scholars who continued to use historical and interpretive methods.

20 For example, evidence of consistency in the voting patterns of Supreme Court justices might be explained in different ways. Personal attitudes and preference maximization are not the only possible explanations. Lawrence Baum makes a point along these lines when he argues that Segal and Spaeth's (1993) conclusions about Supreme Court decision-making rest on the unstated premise that the structure they find in justices' votes could have no basis other than the attitudes of justices about public policy. This "intuitive leap," as Baum calls it, "is not compelled by the evidence presented." (1994:4). Judicial consistency might also be explained by taken for granted beliefs that are institutionally constituted. *Some* set of taken for granted beliefs (whether endogenous or exogenous or some combination of the two) must be foundational. This is clear in light of the fact that some set of assumptions, not subject to reflexivity, is necessary for consciousness and action (Fish 1989).

21 Gillman (1999) argues that assumptions about exogenous instrumental motivation prevent the strategic approach from (1) accounting for the normative terrain upon which strategic decisions arise, and (2) distinguishing between instrumental (exogenous) and non-instrumental (endogenous) motivators of judicial actions.

22 Careful attention to what attitudinalists have actually done, Segal states, reveals that their work closely resembles strategic work except when decisions are on the merits. He argues that empirical support is lacking for models positing frequent or necessary constraint in such decisions. "With the exception of Spiller and Gely (1992) [the conclusions to be drawn from their study are mixed], systematic evidence in support of [maximization] models at the Supreme Court level remains virtually nonexistent" (1999:252).

23 Jonathan Cohn (1999) notes that rational choice adherents concede ground to their critics on the issue of disconfirming facts. However, adherents dispute the significance of this. Cohn quotes Dennis Chong: "A theory cannot be rejected because of disconfirming facts. It can only be supplanted by a superior theory."

24 Eulau and March (1969:102-05) note the increases of NSF support to political science between 1962 and 1967.

25 States Cohn (1999), "Graduate students and young professors now assume that fluency in rational choice is a de facto requirement for tenure, and at most schools that may be correct….The impact of rational choice is also manifest in undergraduate education, as elite institutions must increasingly hire outside instructors to teach the broad, politically relevant courses that tend to attract college students—the kinds of courses that, a generation ago, inspired many of these students to pursue graduate studies."

26 See Clayton (1999:33-35) for a brief discussion of potential problems with the interpretive-historical approach.

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PRIMUS INTER PARES:

FECUNDITY AND THE CHIEF JUSTICE

I.M. RES, ASSISTANT PROFESSOR
DEPARTMENT OF POLITICAL SCIENCE
THE UNIVERSITY

"He that hath wife and children hath given hostages to fortune; for they are impediments to great enterprises, either of virtue or mischief."
- Sir Frances Bacon, *Of Marriage and Single Life*.

In recent years scholars of judicial politics have lamented our field' s almost obsessive concentration on the United States Supreme Court (e.g., most recently, Epstein 1999). Yet while we know (or think we know) a great deal about the decision-making of the justices, the fact remains that that knowledge is, for the most part, limited to their behavior on and with respect to the Court. Studies of the justices' decision in other matters, in contrast, are much fewer and further between. And among these matters, few are as significant, and hold such profound personal, emotional, and professional implications, as an individual' s choices regarding procreation. Yet while sociologists, psychologists, economists, demographers and others have expended extensive resources examining the decision to bear children, our discipline remains silent on this critical issue.

In an initial effort to fill this yawning gap in our understanding of judicial behavior, I obtained data on the number of children sired by each of the Court' s 109 justices from the *Supreme Court Compendiu*m, Second Edition (Epstein et. al. 1996). Not surprisingly, none of the six justices who never married (Cardozo, Clarke, McReynolds, Moody, Murphy and Souter) are recorded as having sired any children. In addition, ten other married justices also had no offspring, though none of those ten were married more than once. A comparison of the number of children with the number of spouses each justice had shows a strong positive relationship [P 2 = 141.32 *(*$p < .01$*)*, $r = 0.39$], while the strong negative correlation between offspring and year of appointment *(*$r = -0.45$, $p < .01$) corresponds to general downward trends in family size for American society at large (e.g. Kobrin 1976; Westhoff 1983).

Most surprising, and intriguing, however, is the differences between associate and chief justices. In brief, chief justices clearly and systematically have larger families than associates. The twelve justices appointed directly to the chief justiceship averaged 5.58 children, as compared to the associate justices' average of 3.56 *(*$t = 2.31$, $p = .01$); if we include chiefs elevated from the associate justice position the averages are 4.80 and 3.63, respectively *(*$t = 1.45$, $p = .07$).

To determine whether this difference persisted in the face of other possible explanations, I estimated a model of the num-

ber of children sired by members of the Supreme Court, as a function of a range of potential independent variables; these results are presented in Table 1. In addition to the marriage and time factors noted above, I included the age of the justice at the time of his or her appointment, his or her political party affiliation, and whether s/he was a Southerner or a Roman Catholic. Both the marriage and time effects persist in the multivariate model, while the impact of Catholicism is also substantial and marginally significant ($p = 0.06$, two-tailed). Likewise, the chief justice effect remains strong, despite controlling for the effect of a range of other variables important to family size. Specifically, the model predicts that chief justices will average 1.45 children for every single child borne by a comparable associate justice.

What might explain this striking empirical regularity? No previous discussions of the chief justices have commented on this propensity towards fecundity; in fact, few accounts speak extensively of the chiefs' family lives at all. Many accounts make only passing references: John Marshall was noted by a prominent biographer to have had ten children, six of whom lived to adulthood (Baker 1974), while Morrison Waite had "a growing family of four healthy children, three sons and a daughter" (Magrath 1963, 41). Others are (slightly) more specific: Walker (1965, 45) notes that "The Taneys' first child was born on August 24, 1808; Ann Arnold Key Taney... Five more arrived at two or three-year intervals, and then, after a long gap, Alice Carroll Taney, the seventh and youngest" (see also, e.g., Mason 1956).

Table 1
Poisson Model of Supreme Court Justice Fecundity, 1789-1994

Independent Variable	Estimate
(Constant)	-5.84 (380.20)
Married	15.47 (380.19)
Number of Spouses	0.24* (0.08)
Age at Nomination	-0.005 (0.008)
Year Appointed	-0.005* (0.001)
Federalist/Whig/Republican	0.02 (0.11)
South	0.04 (0.12)
Catholic	0.34 (0.19)
Chief Justice	0.37* (0.14)

Note: N = 106; three justices (Blair, Brown and McKinley) lack data on the number of children. Numbers in parentheses are standard errors. One asterisk indicates p < .05.

One possible answer lies in the nature of the marital unions of which the various chief justices were a part. This author' s nonrandom, unscientific review of the biographies of the chief justices suggests that nearly all of them had especially happy marriages. As examples, Chief Justice Hughes' "love for his wife knew no bounds...the marriage on which he had embarked was to be one of the happiest imaginable" (Pusey 1963, 88). Chief Justice Fuller once remarked that his "' ...was a love match... I was introduced to her on a Saturday, with her the next Saturday, engaged the Wednesday after' " (King 1950, 65), and his biographer goes on to note that "...his family life was idyllic" (ibid. 73; see also Ely 1995). Chief Justices Marshall (Baker 1974, 72-3), Waite (Magrath 1963, 40) and others are also noted to have had particularly blissful

matrimonial relationships, a fact which may have contributed to their propensity toward large families.

Of course, whether this explanation is sufficient, or even valid, awaits a more systematic and thorough analysis of the lives of the justices, both associates and chiefs. And one might certainly imagine a host of alternative hypotheses: the analysis here, for example, fails to control for socialization effects due to the size of the family in which the justices were themselves raised. Furthermore, there is the problem of spuriousness to contend with; this might occur, for example, if more dominant individuals are also more successful at reproduction (e.g. Poston 1997). But while a more fulsome answer to the question of chief justice fecundity depends on future investigation, the fact of this empirical regularity remains, I hope, to prompt further dialogue on this and other fundamental, yet unanswered questions on the nature of judicial behavior.

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BOOKS TO WATCH FOR

SUE DAVIS
UNIVERSITY OF DELAWARE

The Second Edition of **Albert P. Melone's** (Southern Illinois University Carbondale) *Researching Constitutional Law* will be available from Waveland Press in July. It is a revised edition of a widely adopted text in the 1990s and a successor volume of an earlier title published in the 1980s. Melone introduces non-law students to the process of legal research, first concentrating on case opinions and statutory law, including court reports and codes. He then proceeds to describe and explain how to use a variety of secondary sources including legal encyclopedias, citators, digests, and periodicals. This practical, convenient reference work guides students on every aspect of writing a quality research paper, from showing how to brief a court opinion to explaining elementary quantitative analysis techniques including Guttman scaling techniques and bloc analysis. Readers are advised on how to write a research design and how to document papers including traditional footnoting techniques, in-text references and the legal format employed by the leading law journals. Also included are extensive lists of primary and secondary sources and summaries of leading Supreme Court decisions, a glossary of terms, and an extensive bibliography covering major topics in constitutional law and politics. An instructor's manual with test-bank questions and practical exercises on how to use materials in the law library are packaged with all examination copies.

E-mail requests for examination copies at: info@waveland.com, or write: Waveland Press, Inc., P.O. Box 400 Prospect Heights, Illinois 60070.

The Fourth Edition of **Henry J. Abraham's** (University of Virginia) *Justices, Presidents, and Senators: A History of U.S. Supreme Court Appointments from Washington to Clinton* has just been published by Rowman & Littlefield. The new edition contains photographs of all the justices from 1789 to 1999. Also, the new edition is in paperback for the first time since the 1970s.

Susan Gluck Mezey's (Loyola University) new book, *Pitiful Plaintiffs: Child Welfare Litigation and the Federal Court* is available from University of Pittsburgh Press. Focusing on a class action lawsuit against the Illinois child welfare system, Mezey examines the role of the federal courts in the child welfare policymaking process and the extent to which litigation can achieve the goal of reforming child welfare systems. Beginning in the 1970s, children's advocates asked the federal courts to intervene in the child welfare policymaking process. Their weapons were, for the most part, class action suits that sought widespread reform of child welfare systems. This book is about the tens of thousands of abused and neglected children in the United States who enlisted the help of the federal courts to compel state and local governments to fulfill their obligations to them.

Based on a variety of sources, the core of the research consists of in-depth, open-ended interviews with individuals involved in the Illinois child welfare system, particularly those engaged in the litigation process, including attorneys, public officials, members of children's advocacy groups, and federal judges. The interviews were supplemented with information from legal documents, government reports and publications, national and local news reports, and scholarly writings. Despite the proliferation of child welfare lawsuits and the increasingly important role of the federal judiciary in child welfare policymaking, structural reform litigation against child welfare systems has received scant scholarly attention from a political science or public policy perspective.

The John Hopkins University Press has recently published *The Judicial Politics of the D.C. Circuit Court*, by **Christopher P. Banks** (University of Akron). Using empirical, doctrinal and historical analysis, Banks argues that the D.C. Circuit has been politically transformed in its jurisdiction, membership, and jurisprudence in criminal and administrative law after 1960. He observes that during the 1960's the D.C. Circuit earned a reputation as a liberal court that aggressively protected the rights of criminal defendants; but that in 1970, conservatives in Congress and the Executive responded to the court's perceived activism by enacting court reform that removed the circuit's authority over local criminal appeals, a court-curbing effort that substantially changed the court's agenda and the nature of its judicial function over the next two decades. Banks continues that as the country and court became more conservative in the 1980's, the D.C. Circuit became more ideologically divided in its access policymaking, judicial deference to agencies, and en banc review cases. He concludes by saying that its increasing influence over administrative law transformed the D.C. Circuit into a quasi-specialized court that is a significant court of last resort in the administrative state and perhaps also a contemporary working model for reforming the circuit courts along subject matter lines.

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Section News and Awards

Section Nominations

At the Annual Business Meeting, the Section's nominating committee will nominate the following members for Chair-Elect and the Executive Council.

There were 7 candidates for the Chair-Elect position and 11 candidates for the Executive Council openings. The nominees have agreed to serve if elected.

Chair-Elect:
C. Neal Tate
University of North Texas

Executive Council
Susette Talarico
University of Georgia

Christopher Zorn
Emory University

The nominating committee, chaired by Roy Flemming, was comprised of Sara Benesh, Gayle Binion, Milt Heuman, and Steve Van Winkle.

Harcourt College Publishers Award

The first annual Harcourt College Publishers Award, given for a book or journal article, 10 years or older, that has made a lasting impression on the field of law and courts, goes to *Decision-Making in a Democracy: the Supreme Court as a National Policy Maker* by **Robert Dahl**. The award will be presented to Professor Dahl at the Law and Courts Section meeting at this year's APSA Convention.

The award committee chaired by Jeffrey Segal also included Rogers Smith and Shannon Smithey.

Lifetime Achievement Award

The Lifetime Achievement Award to be presented at the APSA Meeting will go to **Professor Beverly B. Cook**. The award is in recognition of her scholarly contributions and her contributions to the profession. All those attending the APSA meeting are cordially invited to attend the panel honoring Bev, which will be held prior to the Law and Courts business meeting on Friday September 1.

The award committee was chaired by Sheldon Goldman and included Judith A.Baer, Malcolm Feeley, Lynn Mather, and Jennifer A. Segal

American Judicature Society Award

Given annually for the best paper on law and courts presented at the previous year's annual meetings of the American, Midwest, Northeastern, Southern, Southwestern or Western Political Science Assocations is:

Laura Langer,
Universtity of Arizona
"Does the Chief Justice on State Courts of Last Resort Shape Judicial Review?
The Case of Workers' Compensation."

The award committee consisted of Susette Talarico (Chair), Charles Franklin and George Vanberg.

CQ Press Award

The Winner of the CQ Press Award, given annually for the best paper on law and courts by a graduate student is:

Michael Ebeid
Yale University
"Do Presidents Sape Supreme Court Ideology? An Analysis of Judicial Agreement Tendencies"

The Award Committee consisted of Beth Henschen (Chair, Charles Cameron, and Nancy Crowe.

C. Herman Pritchett Award

The winner of the C. Herman Pritchett Award, given annually for the best book on Law and Courts written by a political scientists and published the previous year, is:

Majority Rule or Minority Will: Adherence to Precedent on the US Supreme Court
(Cambridge University Press, 1999)
Harold Spaeth and Jeffrey Segal.

Honorable Mention goes to:

Our Lives Before the Law: Constructing a Feminist Jurisprudence
(Princeton University Press, 1999)
Judith A. Baer.

The Award Committee was chaired by Gerald Rosenberg and consisted of Edward V. Heck and Rorie L. Spill.

CONFERENCES, EVENTS AND CALLS FOR PAPERS

UPCOMING CONFERENCES

SUMMER AND FALL 2000

CONFERENCE	DATE	LOCATION	CHAIR
APSA	AUG. 31- SEP. 3	WASHINGTON, D.C.	LAW & COURTS: ROY FLEMING, TEXAS A&M ROY@POLISCI.TAMU.EDU JURISPRUDENCE: GERALD ROSENBERG, U CHICAGO G-ROSENBERG@UCHICAGO.EDU
THE CONSTITUTION AND THE GOOD SOCIETY	SEPT. 22-23	NY, NY	JAMES FLEMING, FORDHAM UNIV SCHOOL OF LAW JFLEMING@MAIL.LAWNET.FORDHAM.EDU
RACE IN AMERICA: ANALYTICAL AND POLICY PERSPECTIVES	NOVEMBER 2-3	LINCOLN, NEBRASKA	MICHAEL COMBS, UNIV OF NEBRASKA, LINCOLN HEND2000@UNL.EDU
SPSA	NOVEMBER 8-11	ATLANTA, GA	
NEPSA (NORTHEASTERN)	NOVEMBER 9-11	ALBANY, NY	JEFFREY KRAUS, WAGNER COLLEGE JFKRAUS1@AOL.COM
PNWPSA	NOVEMBER 9-11	PORTLAND, OR	CORNELL CLAYTON, WASHINGTON STATE UNIV CORNELL@MAIL.WSU.EDU
NATIONAL SOCIAL SCIENCE ASSOCIATION	NOV. 15-17	NEW ORLEANS, LS	FOR MORE INFO E-MAIL NATSOCSCI@AOL.COM

THE PROGRAM IN LAW AND PUBLIC AFFAIRS

The Program in Law and Public Affairs (LAPA), a joint venture of the Woodrow Wilson School, the University Center for Human Values, and the Politics Department, invites outstanding teachers, scholars, lawyers and judges to apply for appointments as Fellows for the academic year 2001-2002. Successful candidates will devote an academic year in residence at Princeton to research, discussions, and scholarly collaborations concerned with when and how legal systems, practices and concepts contribute to justice, order, individual well-being and the common good.

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Applicants should have a doctorate or a professional post-graduate degree. The Fellows program is open to all regardless of citizenship, but it does not support work toward the completion of a degree. Salaries vary according to individual circumstances, but will not exceed a maximum that is set each fall. Fellows from academic institutions normally receive up to one-half their academic-year salaries for the appointment period. A supplement may be paid to Fellows who teach a course. Some benefits are also available. The deadline for receipt of application is *Friday, December 8, 2000.*

For further information, please call, write, or visit our web site:
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Section Events for the 2000 APSA Meeting in Washington D.C. August 30 - September 3

Event	Date	Time
Short Course on Professional Development,	Wednesday August 30	1-3 pm
Roundtable Lifetime Achievement Award Presented to Beverly Blair Cook, University of Wisconsin, Milwaukee	Friday September	1-3:30
Section Business Meeting	Friday Septemeber 1	5:30
Section Reception	Friday September 1	6:30 - 8:00
Roundtable The Harcourt College Publisher's Award Panel Robert Dahl's *Decision Making in a Democracy*	Saturday Septmenber 2	3:30

LAW AND COURTS SHORT COURSE PROFESSIONAL DEVELOPMENT

Beginning and maintaining a career as a political scientist can be difficult. There are a number of critical concerns with which the new scholar has to come to terms—how to interview, how to secure an initial placement, how to publish, how to generate external grants, how to prepare for promotion and tenure, to name but a few. Ironically, despite their obvious importance, these are issues on which advanced graduate students and junior faculty receive relatively little guidance.

Our aim in this short course is to provide practical advice to political scientists who are just entering academic life. Presenters include current and former department chairs, placement directors, journal editors, NSF program officers, and other active members of the section. In addition, a packet of the proceedings and some reference material will be available to participants. Of course, these issues are by no means unique to the field of law and courts. *In fact, we welcome the participation of political scientists from any field of the discipline.*

This short course will be offered as part of the APSA's 2000 annual meeting and held on Wednesday, August 30, 2000 from 1:00 p.m. and run until 3:00 p.m. Other specifics will be posted on the Law and Courts Discussion list. To join the discussion list, send an e-mail to listproc@usc.edu. Please, leave the subject line blank and in the body of the message type: subscribe lawcourts-l <your name>.

In the meantime, for more information feel free to contact Kevin T. McGuire, Department of Political Science, University of North Carolina, CB# 3265 Hamilton Hall, Chapel Hill, NC 27599; phone (919) 962-0431; fax (919) 962-0432; email: kmcguire@unc.edu.

To register, please send the following form and a $10 check (payable to the Law and Courts Section of the American Political Science Association) to Reggie Sheehan, Department of Political Science, Michigan State University, East Lansing, MI 48824.

Professional Development for New Political Scientists: A Short Course
Registration Form

Name: _____

Institutional Affiliation:_____

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Reggie Sheehan
Department of Political Science
Michigan State University
East Lansing, MI 48824.

For more information, please see the Chair's Letter on Page 1

Law and Courts is the newsletter of the Law and Courts Section of the American Political Science Association.

Subscriptions to **Law and Courts** are free to members of the APSA's Law and Courts Section. Please contact the APSA to join the Section.

The deadline for submissions for the next issue of **Law and Courts** is November 1, 2000.

Law and Courts

Cornell Clayton, Editor
Department of Political Science
PO Box 644880
Washington State University
Pullman, WA 99164-4880

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