

Finally, Chapter 7 provides case studies in accountability, focusing on the 1872 tariff law, bills making up the Compromise of 1850, and voting during lame-duck sessions.

*Electoral Incentives in Congress* does not directly test for responsiveness (the third component of representation) by members of Congress because it is focused on elections, not legislative behavior. However, the results summarized previously provide indirect support for the claim that nineteenth-century House members did strive to be responsive to their constituents. At least *some* of the incumbency advantage enjoyed by these legislators was based on the provision of effective service to their constituents, while the case studies provide examples of voters demonstrating that they could reward responsiveness.

The book has two broader implications for the study of American political history, and of legislative elections. First, extant models of contemporary American elections can help us explain a wider range of electoral outcomes if the models are generalized to apply to different contexts. Second, it helps to “normalize” nineteenth-century politics. Scholars seeking to understand these legislators and their actions can and should think of them as ambitious politicians who were advancing their careers within the constraints of democratic politics.

One limitation of this work is that it provides only a brief discussion of rotation in office. This practice is fascinating as a counterpoint to the current period of long-term incumbents, and as a precursor to the term-limits movement of the late twentieth century. The practice of rotation underscored the degree to which nineteenth-century voters and party leaders preferred “delegate” to “trustee” models of representation. The results of this book suggest that by defending rotation in office, local party organizations may have also been forgoing the electoral benefits of renominating well-known, responsive members of Congress.

For *Electoral Incentives*, the long-standing emphasis on rotation in office serves as the “conventional wisdom” of underrepresentation that the authors seek to test. The book misses an opportunity, however, to fully document the rise and fall of rotation in office. Where and when does it seem to flourish? Is there a meaningful competitive difference between incumbent House members running for reelection and candidates with prior electoral success running for a different office? When and why do incumbents win out over local traditions of rotation? This remains a topic deserving further study.

A second opportunity for further research is to evaluate the effect of congressional service on political careers. The authors make an excellent distinction between *congressional* careers—a period of service in the national legislature—and *political* careers served in local, state, and federal office. This is a meaningful distinction in the present day, but especially important for understanding how

nineteenth-century parties employed a class of professional politicians serving relatively short congressional careers as they cycled between offices. In this political environment, what is the value of service in Congress? Was the U.S. House of Representatives considered a prestigious office that served as a stepping-stone between local and statewide offices? It would be labor intensive to identify and document a comparison group of politicians, but the reward would be an understanding of the relative importance of the U.S. Congress in the political system. In any event, these are just some of the fascinating questions raised by this important study.

**President Obama: Constitutional Aspirations and Executive Actions.** By Louis Fisher. Lawrence: University Press of Kansas, 2018. 296p. \$45.00 cloth, \$24.95 paper.  
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— John J. Pitney, Jr., *Claremont McKenna College*

“Compared to what?” is a Borscht Belt punchline that is especially relevant to presidential studies in these times. By contrast with the 45th president, any previous chief executive would come across as a model of statesmanship. For the purposes of political science, however, a higher standard is in order. Louis Fisher, a preeminent scholar of constitutional issues, applies such a standard in this excellent study of the Obama administration.

During the 2008 campaign, Barack Obama often mentioned that he had taught constitutional law, and he chastised George W. Bush for executive overreach. Many observers hoped that his election would restore regular order and presidential restraint. As Fisher explains, however, Obama’s performance fell short of these hopes. He did not commit impeachable offenses or launch massive new wars, but neither did he jettison much of the power that had built up in the White House.

Fisher begins by describing how the presidency evolved beyond what the Founders intended. Right from the start, they recognized one potential threat to the constitutional balance. As Alexander Hamilton put it in Federalist 8: “It is of the nature of war to increase the executive at the expense of the legislative authority.” Whether this point was particularly troubling to Hamilton, who argued endlessly for increased “energy” in the executive, is debatable. Nevertheless, James Madison, the “father” of the Constitution, came to be increasingly troubled by executive overreach in responses to foreign crises, as is evident in his response to the Alien and Sedition Acts.

Until the middle of the twentieth century, military action sporadically had the effect of augmenting presidential power, but the problem became chronic as World War II gave way to the Cold War, which in turn gave way to conflicts in Korea, Vietnam, Iraq, Afghanistan, and elsewhere. Through active approval or passive

acceptance, Fisher contends, the legislative branch let the executive branch slip the surly bonds of our fundamental law: “It is accurate to say that from Truman to the present time Presidents have engaged the country repeatedly in unconstitutional wars” (p. 22). Fisher includes President Obama’s 2011 decision to intervene in Libya, arguing that “the use of military force against another country that has not threatened the United States is, as former Secretary of Defense Robert Gates has said, ‘an act of war’” (p. 215).

Fisher writes that assertive presidents have found enablers in the judiciary and the academic world. He points to Justice George Sutherland’s famous majority opinion in *U.S. v. Curtiss-Wright* (299 U.S. 304 (1936)), which spoke of the president’s status as the “sole organ” of foreign policy, including “unfettered discretion.” Sutherland, Fisher says, based this opinion not on the text of the Constitution but on a gross distortion of a speech that John Marshall gave in 1800. Nevertheless, the decision influenced law and policy for decades to come. In midcentury, Fisher adds, historians and political scientists backed up the argument for a stronger chief executive: “From the 1940s through the 1960s, a number of presidential scholars advanced their professional careers by arguing that it was politically necessary and constitutionally permissible to transfer ever greater power to the President” (p. 7). The trend of scholarly opinion changed with the Vietnam War and Watergate, but by that time, the “Imperial Presidency” had achieved daunting dimensions.

The growth of presidential power has often taken the form of independent executive actions. Presidents have been issuing executive orders, memoranda, and similar documents since the early days of the republic, with George Washington’s Neutrality Proclamation setting an important precedent. Since World War II, Fisher writes, presidents have increasingly bypassed the legislative process to make public policy through such unilateral actions. Some of these measures, such as executive orders to advance Civil Rights, have understandably met with widespread support. Others have been controversial, with critics condemning them as efforts to subvert the constitutional separation of powers. A good deal of that controversy has revolved around signing statements, in which presidents affix their names to legislation while expressing views about the constitutionality and enforceability of various provisions. As a senator, Barack Obama attacked President George W. Bush for abusing signing statements. As a president, Fisher says, Obama followed his predecessors in pushing the boundaries. Signing a bill on national defense, he suggested that he might disregard purportedly unconstitutional restrictions on the transfer of detainees. “Under this interpretation,” writes Fisher, “the law is not what appears in a signed bill but what the administration decided to do later on” (p. 81).

Unilateral action has its limits. President Obama sought to prevent the deportation of undocumented immigrants who are parents of citizens or permanent residents. This policy never materialized because a federal judge issued an injunction, saying that the policy raised issues under the Take Care Clause and the Administrative Procedure Act. The administration argued in court that it was merely an exercise of prosecutorial discretion, not a breach of constitutional authority. But as the judge noticed, President Obama himself had said that because Congress had failed to act on immigration, “I just took action to change the law” (p. 137). Eventually, an evenly divided Supreme Court left the lower court judgment in place. In 2017, the next administration’s Homeland Security secretary rescinded the program.

Executive actions do not have the formal staying power of statutes: What one president does by the stroke of a pen, the next president can undo by another stroke of the pen—at least in principle. In practice, it is not so easy. After this book went to press, a federal judge thwarted the Trump administration’s efforts to end protections for “Dreamers.” Citing the same Administrative Procedure Act that frustrated President Obama’s efforts for parents, the court ruled that the Trump administration must fully restore the Deferred Action for Childhood Arrivals program.

This is that rare academic work that could have been even better if it had been longer. It does mention ways in which Congress has deliberately expanded presidential power, but it could have gone into greater detail on this point. Take trade policy. Although the Constitution explicitly vests Congress with authority over taxation and international trade, lawmakers have passed statutes giving presidents considerable latitude to raise and lower tariffs. Despite his rhetorical commitment to free trade, President Obama exercised this power, setting the stage for far more draconian tariffs under his successor.

The very useful chapter on executive claims to secrecy might have been stronger with additional discussion of the Obama administration’s fraught record. The Justice Department probed leaks by subpoenaing the telephone records of Associated Press journalists. It surveilled James Rosen of Fox News and named him as a “co-conspirator” in a leak about North Korea’s nuclear program. And in another leak investigation, James Risen of the *New York Times* spent years fighting administration efforts to make him give up a confidential source. Some journalists called it the least transparent administration in their memory—until the next one made this notion seem quaint.

*President Obama* concludes with a well-justified call to restore the regular legislative process. Here too, further development would have been helpful. In recent decades, Congress has weakened its own capacity for deliberation and oversight, shifting its staff resources from research, investigation, and policy analysis to “messaging” and public relations. As Fisher argues, too much power has

shifted to one end of Pennsylvania Avenue—but much of the blame lies at the other end.

**Handcuffs and Chain Link: Criminalizing the Undocumented in America.** By Benjamin Gonzalez O'Brien. Charlottesville: University of Virginia Press, 2018. 192p. \$30.00 cloth. doi:10.1017/S1537592718003845

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Since the 2016 election of Donald Trump, the notion that undocumented immigrants are a criminal threat has been an increasing and controversial part of political discourse about immigration in the United States. Media images of undocumented immigrants in handcuffs and chains—on the ground somewhere in the desert, detained in a workplace or home raid by U.S. Immigration and Customs Enforcement (ICE) agents, or on the tarmac boarding a deportation flight—vividly communicate to the public that undocumented immigrants are viewed and treated as criminals, not hard workers wanting to improve their lives and those of their families.

While undocumented immigrants have been vilified and targeted with harsh enforcement actions and penalties in the past, many would be surprised to learn that the immigrant-as-criminal narrative so prevalent today has its policy roots in the 1929 Undesirable Aliens Act (S. 5094), a federal law that for the first time criminalized undocumented entry and reentry into the United States, punishable by prison or fine or both. In *Handcuffs and Chain Link*, Benjamin Gonzalez O'Brien offers an insightful and accessible analysis of the historical criminalization of undocumented Mexican immigrants in the United States. His analysis of congressional debates and public opinion survey data lucidly explains why the criminalization of Mexican immigrants has become so entrenched, why alternative elite discourses and policy treatments of undocumented immigrants have failed, how the criminality frame resonates with the public today, and how public perceptions of undocumented criminality shape different immigration policy preferences.

The book is clearly structured. The introduction discusses how rhetoric and legislation related to undocumented immigrants in the United States have long been viewed through a criminality lens, and it provides an overview of the book. The analysis of early congressional debate texts in Chapter 1 traces the roots of the convergence between immigration and criminal law to the 1920s, when Congress passed the restrictive immigration quotas as part of the Johnson-Reed Act and S. 5094. Chapter 2 offers an analysis of congressional debates in the 1980s and 1990s to show that while the 1986 Immigration Reform and Control Act (IRCA) sought to approach undocumented immigration more as a labor issue, the law's shortcomings only further reinforced the earlier established fictitious association of

undocumented immigrants with criminality, as evidenced by Congress's adoption in 1996 of the Illegal Immigration Reform and Immigrant Responsibility Act. Chapter 3, drawing on nationally representative survey data, examines the beliefs in immigrant criminality among the public, highlighting differences in perceptions among Whites and Blacks. Chapter 4 draws on the same survey data to examine the effects of public perceptions of undocumented criminality on policy preferences, finding that criminal threat perceptions resonate differently among Whites and Blacks. The conclusion reviews key findings and discusses possible avenues for further research.

Besides adding to the immigration literature by exploring the themes of criminality, illegality, and federal policy, the book's strength also lies in its contribution to public policy research. In public policy theory, path dependence assumes that early policy decisions create institutional paths that constrain future policy choices, so that later policies resemble earlier ones, until moments of punctuated equilibrium open windows of opportunity for notable policy change that deviate from the prior path. Path dependence theory, however, does not adequately account for policies that go in a different direction but whose failures then are critical in reinforcing prior paths, prior rhetorics, and prior policy solutions.

This book is a useful case study of these dynamics in the specific area of immigration policy. After the enactment of S. 5094 in 1929, members of Congress had approached undocumented immigration largely as a crime control issue with policy solutions that solely punished the undocumented for their immigration "crimes." The enactment of IRCA in 1986 promised to be a moment of punctuated equilibrium and allowed the reframing of undocumented immigration as a labor issue, with solutions that included a large-scale legalization program and punishment of employers who knowingly hired undocumented workers. But as Gonzalez O'Brien shows, IRCA turned out to be a "critical policy failure" that did not stem the tide of undocumented immigration, prompting members of Congress once again to embrace undocumented immigration as a crime control issue moving forward.

Another strength of the book is its use of both qualitative and quantitative data to provide a compelling account of the origins and consequences of negative stereotypes against undocumented immigrants (and especially undocumented immigrants from Mexico) in the United States. Chapters 1 and 2 draw on content analysis of congressional debates about key immigration laws in the 1920s, 1980s, and 1990s. Both chapters include many vivid and, to be sure, hair-raising quotes from U.S. representatives and senators that effectively illustrate how they similarly racialized and criminalized undocumented immigrants from Mexico then and now, often clearly contradicting data that showed that undocumented