

December 1969

Book Review of *The Power of the Presidency: Concepts and Controversy*

Jack D. Edwards

Follow this and additional works at: <https://scholarship.law.wm.edu/wmlr>



Part of the [President/Executive Department Commons](#)

Repository Citation

Jack D. Edwards, *Book Review of The Power of the Presidency: Concepts and Controversy*, 11 Wm. & Mary L. Rev. 568 (1969), <https://scholarship.law.wm.edu/wmlr/vol11/iss2/16>

Copyright c 1969 by the authors. This article is brought to you by the William & Mary Law School Scholarship Repository.

<https://scholarship.law.wm.edu/wmlr>

BOOK REVIEW

THE POWER OF THE PRESIDENCY: CONCEPTS AND CONTROVERSY—By: ROBERT S. HIRSCHFIELD, New York: Atherton Press, 1968. Pp. 328.

In the preface to his work on the Presidency, Mr. Hirschfield writes:

This book explores (several) questions by presenting a wide range of views on presidential power from a variety of sources. . . . While these readings inevitably discuss the roles and functions of the President, they have been chosen because they focus on his power, and because they stimulate serious thought about this essential aspect of the office.

The book is divided into four sections. The first section presents Federalist and Antifederalist views. The debate focuses primarily on whether the powers of the President under the new Constitution will be similar to, greater than, or less than those of the British Monarch. The second section consists of the views of Presidents (and President-watchers)—from George Washington to Lyndon Johnson. These selections include the Hamilton-Madison debate over the “initial expansion of Presidential power”; Jackson, Buchanan, and Lincoln on the slavery crisis; Theodore Roosevelt, Taft, and Wilson on the development of the modern Presidency; and Franklin Roosevelt and his successors’ views of “the contemporary Presidency.” Judicial views of the Presidency comprise the third section; there are opinions from seven Supreme Court cases, four of them dealing with war powers. The last section presents eight “experts’ views” of the Presidency. Five are partly or wholly concerned with whether the President has too much or too little power.

The section which was most interesting to this reviewer was that which presents the views of the Presidents. Since the selections are carefully chosen, there is a lively interplay of ideas. The book’s other three sections are less successful. Speculation about whether the President will be an elected king may satisfy historical curiosity but it does not add much to our understanding of the Presidency. Most of the experts’ essays are not penetrating analyses; they tend to be

extensions of the Hamilton-Madison debate. There are two or three exceptions, particularly Richard Neustadt's *The Reality of Presidential Power*. If these selections are the best available (and they may be), the study of the Presidency has not progressed very far. Finally, Supreme Court opinions throw little light on the question of how much power the President has. In many areas of American politics, one must be familiar with the policy pronouncements of the Supreme Court if he is to understand the development of institutions and patterns of behavior; however, the development of the modern Presidency is not such an area. Most of the opinions legitimize a President's assertion of authority. Even *Youngstown Sheet & Tube Company v. Sawyer*,¹ which appears to be the principal judicial rebuff to the claims of the activist Presidents, is more notable for what it implies about the breadth of Presidential authority than for what it says about the limits of that authority. At least five of the justices in that case agreed with the doctrine of inherent powers.

The author's focus on power is helpful, and the book is much more cohesive than the usual edited volume which attempts to cover all major aspects of the Presidency. One of the flaws in the book, however, is a failure to define "power" carefully. It is not clear whether the book uses the term to refer to the extent to which assertions of Presidential authority are legitimate, or the extent to which a President can in fact wield influence, *i.e.*, affect the behavior of other persons. Clinton Rossiter's *The American Presidency*² is a good example of a treatment of institutional legitimacy. Rossiter discusses the President's ten "roles," a term used to mean categories of activity. *Presidential Power*,³ by Richard Neustadt, is concerned with the scope of actual Presidential influence. Neustadt shows that there are severe limits on what a President can do, regardless of the amount of formal authority which he may possess. The distinction is not made in Hirschfield's book.

Another characteristic of this book is that it is heavily normative. Most of the authors are primarily concerned with whether the President should be given more or less power (or authority). These are important questions to ask, especially now that Presidential affairs have become so complicated that a student is tempted to restrict himself to a small part of the total institution. Answers to broad, norma-

1. 343 U.S. 579 (1952).

2. (New York: Harcourt, Brace & World, 1956).

3. (New York: John Wiley & Sons, Inc., 1960).

tive questions such as "Should the President have more power?" are not likely to be satisfactory, however, unless they are supported by careful analyses of the ways in which a President can wield influence. Divorced from such a foundation, one answer to a normative question is about as helpful as another.

The author begins at the preface by stating that "[t]he American Presidency is the most powerful political office in the world." Most would agree with this assertion; those who doubt it would quibble only slightly. It seems surprising, then, that we have so few good descriptive and analytical accounts of Presidential influence in policy-making. This can be attributed in part to the methodological problems in studying the Presidency. Neither a President nor his closest advisors are available for interviews. This forces a scholar to rely on historical, biographical, and anecdotal data which are difficult to verify and evaluate. Another problem is the uniqueness of Presidential actions. It is almost impossible to be either comparative or quantitative when studying Presidential behavior. Thus, students in this area are denied the methodological tools which have facilitated the development of reliable analyses in other branches of political inquiry. As a result, our understanding of the Presidency has not increased much in recent years, even though the executive is the dominant institution in American politics. In contrast, studies during the past ten years of Congress and the Supreme Court have added substantially to our understanding of those institutions.

The Power of the Presidency is an excellent treatment of normative views of the scope of Presidential authority. At best, only a minor portion of the book deals with the behavioral aspects of Presidential power such as the elements of power, the factors affecting it, how it is protected or dissipated, or how and under what circumstances it can be utilized. This omission tells more about the state of our knowledge, however, than about Hirschfield's editorial imagination.

JACK D. EDWARDS*

* B.A., 1955, Macalester College; LL.B., 1958, Harvard University; Ph.D., 1966 Vanderbilt University.