avant garde should exclude legal scholars and "squishes" from our midst. But what would that solve? We who proceed down the primrose path are by no means united. Rational choice scholarship, for example, is divided between those who view the Supreme Court as a largely self-contained entity and those who emphasize Court-Congress relationships (separation of powers models). Or more broadly, should non-modelers of whatever stripe be cast into the outer darkness, beyond the proverbial pale? Then there are those who would recognize only those scholars who publish in our "leading" journals, thus excluding the peons who patronize the conferences and journals of Law and Society and Empirical Legal Studies.

It is much more important, I believe, to cast aside such internecine trivialities and view our position relative to the discipline writ large. Not so long ago – barely 25 years – judicial scholarship was ranked as the least significant work of political scientists (Somit and Tanenhaus 1982, 55-6). Abstraction and abstruseness were perceived to dominate substance (Dixon 1971). The worm, however, has clearly and emphatically turned. Let me count a count a few ways.

We have rather triumphantly invaded the heretofore sanctified (and sanctimonious) precincts of the law schools. Indeed, many of our intruders have ensconced themselves therein without even a law school course to their name – much less a *law* degree! What a far cry from the days when political scientists – even those with J.D.'s from prestigious institutions – were superciliously rejected from academic consideration other than that of law student.

Nor is it solely a matter of infestation. We have significantly altered the public's comprehension of the law itself and the role of judges in the legal system. The myth of objective, dispassionate, and impartial decision making is openly recognized as such even by judges themselves, and been replaced by the reality of personal policy preferences. The perception of law as something that judges "find" is no longer any more credible than the discovery of a unicorn or a dodo bird.

It is commonplace for reports of legal matters to include quotations from judicially oriented political scientists. Not so in the not so long ago. Only purely "legal" authorities were so honored.

In sum, concern about an identity crisis strikes me as evidence that judicial politics has come of age; that our scholarship has taken the offense and made an interdisciplinary mark that the academic aspect of the other social sciences can only hope to emulate.

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Who am I? Why am I here?

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When asked about whether or not the subfield was experiencing some sort of identity crisis for a roundtable at the MPSA, I started thinking about the increasingly significant role political scientists are playing in the legal academy. While I have no idea if that's what the impetus for the roundtable was, it was what I thought about, and hence, what I talked about (and what I'm now writing about). It is most certainly the case that, for a long time, we lamented the fact that legal academics wrote their law review articles as if none of us had ever existed and as if we had never written anything of substance in the last half century. That has certainly changed as more and more legal academics are becoming

interested in empirical studies and as they are more likely to read and cite the work of political scientists. So too there are many more references in our work to law review treatments on point and many more political scientists list law review articles on their vitae. In addition, political scientists are joining law faculties at some of the most prestigious law schools and more and more programs touting joint PhD/JDs are cropping up. But what does this mean for the subfield, and is it a total win for political science? I would argue (and did at the MPSA) that this is, at least in some respects, a one-way relationship, with the legal academy gaining far more from the participation of political scientists than political scientists gain from it. I also argue that these developments have effectuated a form of "brain-drain" that I see as ultimately hurting the subfield. Obviously, this is not an uncontroversial view.

In what ways is this a "brain-drain?" First, it drains the time of those scholars engaging with the legal academy. While it is surely not a zero-sum game, it is certainly the case that time spent on attending law school conferences and writing articles for law reviews and symposia takes away from time spent writing articles for political science journals and time spent at political science conferences, hence potentially lessening the visibility of the law and courts subfield in the discipline of political science. Now, I certainly do not have empirical data to support these claims, but I think it obvious that the more attention we pay to publishing in law reviews, the less attention we can pay to publishing in political science journals. Of course, there are some advantages to law review publication. For one, the whole process is more fun (especially if you're well known in the field) as one submits to a bunch of reviews and then negotiates a placement for the article. It's also faster, as the time consumed by the peer review process is alleviated. And, one can wax far more eloquent in a law review article than in a social science journal article. But those advantages, it seems to me, are also the disadvantages. The length and tedious footnoting in law review articles makes people less likely to really read the work. The process of publication makes it difficult for those without a "name" in the field to get a strong placement. And, of course, one has to work with 2Ls during publication.

Most importantly, though, the lack of peer review greatly troubles me. I see this lack as meaning both that the work is unreliable and, given the large number of law reviews and the process by which they make publication decisions, the "importance" of a work is far less easily ascertained. Of course it is the case that peer review is not universally useful. It is, however, a bar to the publication of the least significant/most problematic work that does not exist for law reviews. And, those reviewing for political science journals are far more qualified to do so and to make publication decisions, especially when the research is empirical, than those on law review, who, only two years prior were, after all, our students in Constitutional Law.

A second way that this amounts to a brain-drain is in graduate education. While one can certainly keep a foot in political science while in residence at a law school, I worry about the implications of the fact that some of our best and brightest are leaving political science departments and, with them, graduate students and potential graduate students in undergraduate majors as well. And, given my experience teaching at a lower-tier law school, it is not worth it to the political scientist either; unless he or she is teaching at one of the very best law schools, the experience I had (corroborated by Rosenberg's (2000) report) is that the law school is a very poor substitute for the graduate classroom. Intellectual curiosity is an unevenly valued commodity there.

Finally, and relatedly, the brain-drain leaves junior scholars without the mentorship they might get were their senior colleagues in residence. Indeed, they will see senior scholars publishing widely in law reviews, wondering why that's the best option for their mentors while it is a forbidden option to them (or at least one that is a waste of their precious tenure clock). Why do we tell them we won't "count" these publications and go out and publish work there ourselves? In other words, the essence of the law review makes it something we are not willing to reward with tenure. Why is it a place we are willing to then publish our work?

What of my claim that this relationship is one-way? It is interesting to me that it is exceedingly unlikely that we would hire a JD for a tenure-track position in a political science department. We are also very unlikely to give course credit to an incoming graduate student for classes he or she took as a law student. The way they study issues related to law is just too different for that. But we have more to offer them, and that may be justly celebrated, as some in this symposium note. We have methodological rigor and can offer training in using and interpreting statistics while also understanding at a fairly high level the institutions we study and their outputs. It makes perfect sense to me, then, that law schools are clamoring to count social scientists among their faculty. Studying law empirically is the "new thing" and the top law

schools want in on the action. We facilitate that, in some ways, at our peril.

For a long time, the so-called "public law" subfield struggled to be taken seriously by the discipline, which sometimes equated it with legal scholarship, more likely to discuss and debate cases and conduct doctrinal analyses than to contribute to the scientific study of politics. Indeed, in the beginning, studying courts from a political science perspective seemed, to some, nonsensical at best, blasphemous at worst. Are we on track to come right back to that? If we want our work to be relevant to political science and the generation of knowledge, it has to be peer-reviewed and it has to be published in the discipline's top journals. And, while it is absolutely the case that much can be learned through reading the law review literature on a given research question, copious citation of law review work will confirm the view that those studying courts are not really political scientists. To me, the answer to Vice Admiral Stockdale's (in)famous set of questions posed as the title to this article is that we are *political scientists*, here to study courts in a scientific and rigorous way. We are political scientists, *not* law professors, and while the collaboration between the legal academy and the political science academy is certainly fruitful and has undoubtedly brought nuance to the way we study courts and judges and the way we think about the law, there are far more questions we seek to answer that are more like those asked by political scientists (nay psychologists, sociologists) than they are like those asked by legal academicians. Most of what fills the voluminous law review pages does not consider questions relevant to a political scientist. Most of what fills those pages has very little to do with what we do.

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Judicial Politics' "Identity Crisis": Some Theory, Some Data

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The term identity crisis is usually attributed to Harvard psychologist and psychoanalyst Erik Erikson, who is most widely-known for his theory positing eight stages of human psychosocial development (Erikson 1950). The notion of *ego identity* played a key role in the fifth of those stages - corresponding roughly to human adolescence - when individuals explore, synthesize, and eventually consolidate their own ideas about their role(s) in society. Importantly, identity is viewed as an explicitly social phenomenon; a key aspect of Erikson's perspective on identity is that the role(s) in question be meaningful to and accepted by the larger society in which the individual lives.

In Erikson's view, identity crises arise as a result of *role confusion*: circumstances where individuals are uncertain about "who they are," and in particular about their place in the larger society and the world. In his 1970 paper "Reflections on the Dissent of Contemporary Youth," Erikson associates role confusion with retrogression to previous stages of development,[1] and notes that such retrogression almost always includes an explicit repudiation of adult society; individuals experiencing an identity crisis thus exhibit behavior that is at odds with their larger social milieu.

Erikson's theory provides one perspective from which to ask whether judicial politics is suffering from an identity crisis. The modern study of judicial politics can arguably be dated to the publication of Pritchett's *The Roosevelt Court* (Pritchett 1948); by this metric, the subfield recently celebrated its sixtieth birthday. While hardly an adolescent in human years, it is not unreasonable to think it so in relative terms: certainly other areas of study (e.g., Congress, public administration, political parties) have longer histories and might be viewed as more theoretically and empirically "mature." In this light - and subject to a bit of friendly anthropomorphism - it is reasonable to ask whether our subfield has achieved its own ego identity within the larger discipline, or whether it is in fact in a state of crisis.