of communication can thrive on ambiguity, assumptions are one thing about which clarity is vital. On the topics of power, freedom, and history, McKeon's lectures maintain their ability to provide just that.—Brad Baraowski, *University of Wisconsin–Madison*

POSNER, Richard A. *The Federal Judiciary: Strengths and Weaknesses.* Cambridge, Mass.: Harvard University Press, 2017. xv + 438 pp. Cloth, $35.00—Richard Posner has been a federal judge for thirty-five years, and before that professor of law for twelve years, and before that six years an attorney in private practice. He confesses that "[i]t is only recently that I have become fully aware that the federal judiciary is laboring under a number of handicaps. . . . Our judicial system is excessively backward looking when it should be concerned with consequences." In this treatise, Posner is concerned only with the federal judiciary.

Posner has long been identified with the Legal Realist or pragmatic school of thought, one dating to the 1920s and 1930s, represented by jurists such as Benjamin Cardoza, Roscoe Pound, and Felix Cohen. Pragmatic judging is based on a consideration of the likely consequences of alternative outcomes. Its motto could be, "From rule-bound to creative outcome," or from passive to active.

In its focus on consequences, pragmatism promotes interdisciplinary legal fields of study such as law and psychology, law and economics, and statistical studies. Such studies are vital in the interpretation of relatively fluid constitutional law. Commercial/financial law, contract law, and banking law, by contrast, are stable compared with constitutional law and criminal procedure.

As a law professor, Posner's initial interest was mainly in the economic effects of court decisions. In the 1950s his interest turned to constitutional law when the Supreme Court, in his judgment, took a leftward turn.

Given his long experience as a federal judge, Posner has come to the conclusion that "too much law is taught in law schools." A modern lawyer has to be familiar with first-rate literature in order to write opinion briefs or even memos to superiors that will be literate, eloquent, and fully intelligible and persuasive. Most good writers have been good readers. The modern lawyer also has to be familiar with technology and economics, but that is another matter. Posner would, if he could, make George Orwell's *Politics and the English Language* (1946) compulsory reading for all law clerks.

Documents, the older the better, he believes, not current understanding, are the gold coin of conventional legal research and analysis, that is, apart from financial and commercial law. But there is a problem with the veneration of old texts, especially old opinions. Old decisions are often at odds with current values, and those who are ignorant of the historical

context in which they were delivered may conclude that those past decisions were arrived at incorrectly. Posner insists that some rulings were right for their times, and could not have been other in the light of their consequences.

Posner admits to being skeptical about courts interpreting statutory law. In some cases, there is no intended meaning to be recovered, given that the law may have been badly framed and enacted. Law is basically not about interpretation but about dispute-resolution. Dispute-resolution requires mastery of facts in dispute and common sense.

Another irritant is the fact that federal judges are appointed by politicians who appoint likeminded jurists. Quality is routinely sacrificed to political advantage. All the current justices on the Supreme Court and on many lower courts are of a distinct political cast. One cannot avoid treating the federal judiciary as political branch of government. While race and sexual diversity may play a role in appointments, Posner says he has not noticed any difference between black and white or male and female in decision-making.

At the risk of being thought a philistine, Posner confesses to not being enamored by the eighteenth century, nor by any text that is a product of that century, including the U.S. Constitution and the Bill of Rights. No document drafted back then can guide our behavior today, because eighteenth-century people could not foresee the problems, the culture, the social and economic conditions, the resources and opportunities and problems and dangers of the twenty-first century.

Posner finds especially troublesome the Seventh Amendment. The Seventh Amendment states that if the matter in controversy in a common law federal case concerns at least $20, the parties have a right to a jury trial. Clearly $20 meant something different in the eighteenth-century. Another anachronism is the provision in Section 1 of the Fourteenth Amendment, which recognizes birthright citizenship. Anyone born in the U.S. is automatically an American citizen. If the provision is read literally, it grants citizenship to even the child of a foreigner who visits the U.S. only to have the child born here, so that he or she will have refuge should things go badly in the family's home country.

Article 2, Section 1 of the Constitution requires that the president be a natural-born citizen. Drawing from his family's experience, Posner tells the reader that his father emigrated from Romania at age three. He grew up as a normal American, spoke fluent English, graduated from Hunter College, and taught English for many years in New York City public schools. He never became a politician, but if he had, he would have been ineligible for the presidency. Posner concludes that the judiciary should simply ignore patently obsolete provisions of the Constitution.

As a matter of fact, he goes so far as to say that constitutional theory is useless. "If I am right, the Constitution is putty in the hands of the judiciary. The judges, especially the Supreme Court justices, have to a considerable extent rewritten it."

A considerable portion of the volume is devoted to Posner's defense of his own work in the face of criticism. He is especially critical of those who defend what he calls "original intent." Justice Antonin Scalia and Justice Elena Kagan are singled out for severe criticism. He was appalled by Justice Kagan's "inflated encomia" upon the death of Justice Scalia, and he has expressed regret that the George Mason School of Law changed its name to honor Scalia.—Jude P. Dougherty, *The Catholic University of America*

PRITCHARD, Duncan. *Epistemic Angst.* Princeton, N.J.: Princeton University Press, 2015. 264 pp. Cloth, $35.00—In this thorough and tightly written work, Pritchard responds to two relatable but distinct central lines of skeptical thought—arguing that the responses are themselves complementary, and indeed that each line of response covers for misgivings one might have about the other.

On the one hand, there are skeptical lines of thought taking their departure from underdetermination—"If S knows that p and q describe incompatible scenarios, and yet S lacks a rational basis that favors p over q, then S lacks knowledge that p." Of course, the antecedent here seems to be one's situation in connection with everyday perceptual beliefs and corresponding brain in a vat (BIV) scenarios. Thus, one would seem not to know that one is now looking at one's computer screen or at a printed page. Underdetermination supposedly has skeptical implications in light of what Pritchard terms the "insularity of reasons"—"roughly, how the rational support our worldly beliefs enjoy, even in the best of cases, is compatible with their widespread falsity."

On the other hand, there are skeptical arguments based in ideas about epistemic closure—"if S knows that p, and S competently deduces from p that q, thereby forming the belief that q on this basis while retaining her knowledge that p, then S knows that q." Of course, everyday beliefs about one's surroundings entail that one is not a BIV—and this does not seem to be a matter on which we have knowledge. Such skeptical lines of thought turn on the universality of rational evaluation—"roughly that there are no in principle limits on the extent to which our beliefs can be rationally evaluated."

Pritchard argues for what he terms "undercutting" rather than "overriding" responses to both lines of thought. An overriding response would grant that there is a real problem, given certain our epistemic evaluative concepts and the associated epistemic practices in which these concepts have root. An overriding response then would be revisionary: urging the replacement of those concepts and practices. In contrast, an undercutting response argues that the apparent problems reflect deep