



Courts And Congress

Howard Abadinsky



Courts And Congress:

The Courts, Congress, and the Politics of Federal Jurisdiction Brett W. Curry, 2005 Abstract Although the institutional relationship between the federal courts and Congress has been the subject of substantial empirical research scholars know relatively little about the specific role that jurisdiction plays in structuring that relationship Most prior scholarship has focused on ways in which Congress has attempted to use its influence over court structure and judicial personnel to impact the federal courts However Congress's ability to expand or limit the types of cases eligible for federal court review has received much less attention By analyzing congressional efforts to limit federal jurisdiction in two major areas of law this dissertation sheds light on jurisdiction's role in the relationship between these governmental branches and more generally the degree of autonomy from congressional oversight that the federal judiciary possesses The dissertation's assessment of this jurisdictional activity begins with a technical area of federal statutory jurisdiction known as diversity jurisdiction There I examine the impact that judicial outcomes court caseloads and group involvement have played in motivating congressional attempts to limit diversity jurisdiction's scope I conclude that while administrative caseload factors have accounted for much of Congress's jurisdictional activity in this area of statutory law dissatisfaction with federal court outcomes has also contributed to Congress's jurisdictional activity in a more limited way The dissertation then moves to an analysis of congressional attempts to curtail federal jurisdiction over certain areas of constitutional law I assess the impact of judicial outcomes public opinion Congress's ideological preferences and several related factors on the intensity with which legislators have sought to exclude certain constitutional claims from the purview of the federal courts since the 1950s The results of these analyses indicate that the tenor of federal judicial outcomes the preferences of the general public and the likelihood of judicial reversal all relate to the intensity with which members of Congress pursue this jurisdiction or court stripping legislation Taken together the dissertation's results suggest that jurisdictional politics may be more critical to the relationship between the federal courts and Congress than most scholars have acknowledged At a minimum the dissertation's results intimate that separation of powers models of the courts and Congress cannot be complete without an acknowledgement of jurisdiction's potential importance to the relationship between these two institutions

Congress V. the Supreme Court Raoul Berger, 1969-02-05

Courts and Congress William J. Quirk, 2011-12-31 It's often said confirmed by survey data that the American people are losing confidence in their government But the problem may be the reverse the government has lost confidence in the people Increasingly the power to make decisions in our democracy has been shifted from Congress to the court system forcing non-elected officials to make decisions which affect the lives of Americans In a society which is based on the democratic elections of its officials this is clearly backwards Quirk maintains that what he calls The Happy Convention an informal and unwritten rearrangement of passing the buck of government powers is done to avoid blame and approval ratings becoming lower for a particular person or party For example The Happy Convention assigns the

power to declare and make war to the President Congress and the Court play a supporting role Congress when requested gives the President a blank check to use force the Court throws out any challenges to the legality of the war Everyone wins if the war avoids disaster If it turns out badly the President is held accountable His ratings fall reelection is out of the question congressmen say he lied to them his Party is likely to lose the next election In this way Quirk reminds us that The Happy Convention is not what the Founders intended for us For democracy to work properly the American people have to know what options they have Courts and Congress argues the case for reestablishing the balance of powers between the courts the Congress and the Presidency

When Courts and Congress Collide Charles Gardner Geyh,2006-03-02 Yet while Congress has long been willing to influence judicial decision making indirectly by blocking the appointments of ideologically unacceptable nominees it has with only rare exceptions resisted employing more direct methods of control When Courts and Congress Collide is the first work to demonstrate that this balance is governed by a dynamic equilibrium a constant give and take between Congress's desire to control the judiciary and its respect for historical norms of judicial independence It is this dynamic equilibrium Geyh says rather than what the Supreme Court or the Constitution says about the separation of powers that defines the limits of the judiciary's independence When Courts and Congress Collide requires all of us to consider whether we are on the verge of radically disrupting our historic balance of governance

BOOK JACKET Courts and Congress Robert A. Katzmann,2010-12-01 What role should the Senate play in the selection and confirmation of judges What criteria are appropriate in evaluating nominees What kinds of questions and answers are appropriate in confirmation hearings How do judges interpret laws enacted by Congress and what problems do they face And what kinds of communications are proper between judges and legislators These questions go to the heart of the relationship between the federal judiciary and Congress a relationship that critically shapes the administration of justice The judiciary needs an environment respectful of its mission and the legislative branch seeks a judicial system that faithfully construes its laws and efficiently discharges justice But the judicial congressional relationship is hindered by an array of issues including an ever rising judicial caseload federalization of the law resource constraints concerns about the confirmation process increasing legislative scrutiny of judicial decisionmaking and the administration of justice and debates about how the courts should interpret legislation Drawing on the world of scholarship and from personal experience Robert A Katzmann examines governance in judicial congressional relations After identifying problems he offers ways to improve understanding between the two branches Copublished with the Governance Institute

Powers of the American People, Congress, President, and Courts Masuji Miyakawa,1906

A Mere Machine Anna Harvey,2013-11-28 Introductory textbooks on American government tell us that the Supreme Court is independent from the elected branches and that independent courts better protect rights than their more deferential counterparts But are these facts or myths In this groundbreaking new work Anna Harvey reports evidence showing that the Supreme Court is in fact extraordinarily deferential to congressional preferences

in its constitutional rulings Analyzing cross national evidence Harvey also finds that the rights protections we enjoy in the United States appear to be largely due to the fact that we do not have an independent Supreme Court In fact we would likely have even greater protections for political and economic rights were we to prohibit our federal courts from exercising judicial review altogether Harvey s findings suggest that constitutional designers would be wise to heed Thomas Jefferson s advice to let mercy be the character of the law giver but let the judge be a mere machine rdquo *Congress, the Constitution and the Supreme Court* Charles Warren,1925 **Powers of the American People, Congress, President, and Courts** Masuji Miyakawa,1908 The Court Vs. Congress Edward Keynes,Randall K. Miller,1989 Since the early 1960s the Supreme Court and its congressional critics have been locked in a continuing dispute over the issues of school prayer busing and abortion Although for years the Court s congressional foes have introduced legislation designed to curb the powers of the federal courts in these areas they have until now failed to enact such proposals It is likely that these legislative efforts and the present confrontation with the Court will continue Edward Keynes and Randall Miller argue that Congress lacks the constitutional power to legislate away the powers of the federal courts and to prevent individuals from seeking redress for presumed infringements of their constitutional rights in these areas They demonstrate that neither the framers nor ratifiers of the Constitution intended the Congress to exercise plenary power over the appellate jurisdiction of the Supreme Court Throughout its history the Court has never conceded unlimited powers to Congress and until the late 1950s Congress had not attempted to gerrymander the Court s jurisdiction in response to specific decisions But the authors contend this is just what the sponsors of recent legislative attacks on the Court intend and they see such efforts as threatening the Court s independence and authority as defined in the separation of powers clauses of the Constitution **Salaries of Judges** United States. Congress. House. Committee on the Judiciary,United States. Congress. Senate. Committee on the Judiciary,1926 *Law, Courts, and Justice in America* Howard Abadinsky,2020-08-17 The eighth edition offers an updated and streamlined examination of the American system of law courts and justice Part I Law reviews the history of courts and justice common law and civil law systems as well as law schools and legal education Part II Courts discusses lawyers and the practice of law unravels the structure and administration of federal and state court systems delineates the appellate process the Supreme Court and judicial review and describes the roles of judges prosecutors and criminal defense attorneys Part III Justice demystifies the criminal justice process negotiated justice civil justice juvenile justice and alternative forms of justice Throughout the book landmark cases important historical events illustrative examples and boxed items highlight or expand chapter content Each of the twelve chapters concludes with an extensive summary a list of key terms and review questions There is also a glossary that provides a summary of important terms The Revised Statutes of the State of Ohio Ohio,1896 **Cases Argued and Decided in the Supreme Court of the United States** ,1919 **Courts and Congress** William Quirk,2018 It s often said confirmed by survey data that the American people are losing confidence in their government But

the problem may be the reverse the government has lost confidence in the people Increasingly the power to make decisions in our democracy has been shifted from Congress to the court system forcing non elected officials to make decisions which affect the lives of Americans In a society which is based on the democratic elections of its officials this is clearly backwards Quirk maintains that what he calls The Happy Convention an informal and unwritten rearrangement of passing the buck of government powers is done to avoid blame and approval ratings becoming lower for a particular person or party For example The Happy Convention assigns the power to declare and make war to the President Congress and the Court play a supporting role Congress when requested gives the President a blank check to use force the Court throws out any challenges to the legality of the war Everyone wins if the war avoids disaster If it turns out badly the President is held accountable His ratings fall reelection is out of the question congressmen say he lied to them his Party is likely to lose the next election In this way Quirk reminds us that The Happy Convention is not what the Founders intended for us For democracy to work properly the American people have to know what options they have Courts and Congress argues the case for reestablishing the balance of powers between the courts the Congress and the Presidency Provided by publisher **Outline of the Jurisdiction and Procedure of the Federal Courts** Joseph Ragland Long,1910 **Constitution, Jefferson's Manual, the Rules of the House of Representatives...and a Digest and Manual of the Rules and Practice of the House of Representatives...** United States. Congress. House,1902 A History and Analysis of the Constitution of the United States Nathaniel Carter Towle,1871 *The Declaration of Independence ; the Articles of Confederation ; the Constitution of the United States* United States,Carnegie Endowment for International Peace. Division of International Law,1917 The Annotated Revised Statutes of the State of Ohio Ohio,Clement Bates,1906

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