

# Scoring Points

*Politicians, Activists, and the  
Lower Federal Court Appointment Process*

Nancy Scherer

# Scoring Points Politicians Activists And The Lower Federal Court Appointment Process

**Herbert M. Kritzer**



## **Scoring Points Politicians Activists And The Lower Federal Court Appointment Process:**

Scoring Points Nancy Scherer, 2005 This book explores how the lower federal court appointment process became vastly politicized in the modern era Scherer develops a theory of elite mobilization positing that lower court appointments have always been used by politicians for electoral purposes but because of two historic changes to American institutions in the 1950s and 1960s the breakdown of the old party system and a federal judiciary reception to expanding individuals constitutional rights politicians shifted from an appointment system dominated by patronage to a system dominated by new policy oriented appointment strategies The use of these new strategies not only resulted in partisan warfare during the nomination and confirmation stages of the appointment process but also led to party polarized voting in the lower federal courts Employing exclusive data of judicial decision making from the New Deal era through the present Scherer demonstrates that there was little party polarized voting in the lower federal courts until the late 1960s and that once politicians began to use elite mobilization strategies significant party polarized voting in the lower federal courts resulted Accordingly elite mobilization strategies have affected not only politics in Washington but also the way justice is distributed across the country

**The Judicial Process** Christopher P. Banks, David M. O'Brien, 2015-02-19 The Judicial Process Law Courts and Judicial Politics is an all new concise yet comprehensive core text that introduces students to the nature and significance of the judicial process in the United States and across the globe It is social scientific in its approach situating the role of the courts and their impact on public policy within a strong foundation in legal theory or political jurisprudence as well as legal scholarship Authors Christopher P Banks and David M O'Brien do not shy away from the politics of the judicial process and offer unique insight into cutting edge and highly relevant issues In its distinctive boxes Contemporary Controversies over Courts and In Comparative Perspective the text examines topics such as the dispute pyramid the law and morality of same sex marriages the hardball politics of judicial selection plea bargaining trends the right to counsel and pay as you go justice judicial decisions limiting the availability of class actions constitutional courts in Europe the judicial role in creating major social change and the role lawyers juries and alternative dispute resolution techniques play in the U S and throughout the world Photos cartoons charts and graphs are used throughout the text to facilitate student learning and highlight key aspects of the judicial process

**Gender and Justice** Sally Jane Kenney, 2013 Intended for use in courses on law and society as well as courses in women s and gender studies women and politics and women and the law this book explores different questions in different North American and European geographical jurisdictions and courts demonstrating the value of a gender analysis of courts judges law institutions organizations and ultimately politics Gender and Justice argues empirically for both more women and more feminists on the bench while demonstrating that achieving these two aims are independent projects

Women and Politics Julie Dolan, Melissa M. Deckman, Michele L. Swers, Paru Shah, 2025-08-26 Women and Politics Paths to Power and Political Influence examines the role of women in politics from the early women s

movement to the female politicians in power today Focusing on women whose stories have not yet been told this book includes new analysis and scholarship on the experiences and viewpoints of conservative women women of color LGBT women and millennial women Students will gain historical insight into how women have achieved political power and how they have influenced the American political system at the state local and national levels in each branch of government Engaging profiles of the key players who have shaped our political system are interwoven with an analysis of the most recent election data to provide a comprehensive and unbiased introduction to the study of women and politics Red and Blue Nation? Pietro S. Nivola, David W. Brady, 2008-04-01 A Brookings Institution Press and the Hoover Institution publication America's polarized politics are largely disconnected from mainstream public preferences This disconnect poses fundamental dangers for the representativeness and accountability of government as well as the already withering public trust in it As the 2008 presidential race kicks into gear the political climate certainly will not become less polarized With important issues to address including immigration policy health care and the funding of the Iraq war it is critical that essential policies not be hostage to partisan political battles Building upon the findings of the first volume of Red and Blue Nation Brookings 2006 which explored the extent of political polarization and its potential causes this new volume delves into the consequences of the gulf between red states and blue states The authors examine the impact of these political divisions on voter behavior Congressional law making judicial selection and foreign policy formation They shed light on hotly debated institutional reform proposals including changes to the electoral system and the congressional rules of engagement and ultimately present research supported policies and reforms for alleviating the underlying causes of political polarization While most discussion of polarization takes place in separate spheres of journalism and academia Red and Blue Nation brings together a unique set of voices with a wide variety of perspectives to enrich our understanding of the issue Written in a broad accessible style it is a resource for anyone interested in the future of electoral politics in America Contributors include Marc Hetherington and John G. Geer Vanderbilt University Deborah Jordan Brooks Dartmouth College Martin P. Wattenberg University of California Irvine Barbara Sinclair and Joel D. Aberbach UCLA Christopher H. Foreman University of Maryland Keith Krehbiel Stanford University Sarah A. Binder Benjamin Wittes Jonathan Rauch and William A. Ga **New Directions in Interest Group Politics** Matt Grossmann, 2013-10-23 Reflecting cutting edge scholarship but written for undergraduates New Directions in Interest Group Politics will help students think critically about influence in the American political system There is no shortage of fear about the special interests in American political debate but reliable information about what interest groups do who they represent and how they influence government is often lacking This volume comprised of original essays by leading scholars is designed to summarize and explain contemporary research that helps address popular questions and concerns making studies accessible to undergraduate students and providing facts to buttress informed debate The book covers the mobilization of interest groups their activities and their influence Each chapter briefly reviews research

on a central question of scholarship before focusing on a particular empirical project designed to shed light on the topic. Rather than simply providing a descriptive overview, the chapters are designed to foster critical thinking by getting students to assess the role of interest groups in the American political system and supplying evidence of their effects. Importantly, a set of web resources associated with the book offer instructions for research and writing assignments. Students will be able to collect and analyze data on campaign finance, lobbying, and interest group involvement in governance. The eResource website includes materials for several classroom simulations, such as an interest group legislative battle, a Netroots convention, and a rule making process. As they read about key questions in democratic government and current research trends, students can practice serving as interest group activists and conduct original research on topics that most interest them.

The Oxford Handbook of U.S. Judicial Behavior Lee Epstein, Stefanie A. Lindquist, 2017-06-08. The Oxford Handbook of U.S. Judicial Behavior offers readers a comprehensive introduction and analysis of research regarding decision making by judges serving on federal and state courts in the U.S. Featuring contributions from leading scholars in the field, the Handbook describes and explains how the courts' political and social context, formal institutional structures, and informal norms affect judicial decision making. The Handbook also explores the impact of judges' personal attributes and preferences, as well as prevailing legal doctrine, influence and shape case outcomes in state and federal courts. The volume also proposes avenues for future research in the various topics addressed throughout the book.

Consultant Editor for The Oxford Handbooks of American Politics: George C. Edwards III.

*Judicial Process in America* Robert A. Carp, Kenneth L. Manning, Lisa M. Holmes, Ronald Stidham, 2019-02-20. Known for shedding light on the link between the courts, public policy, and the political environment, *Judicial Process in America* offers students a clear but comprehensive overview of today's American judiciary. Considering the courts from every level, the authors thoroughly cover judges, lawyers, litigants, and the variables at play in judicial decision making. The highly anticipated Eleventh Edition offers updated coverage of recent Supreme Court rulings, including same sex marriage and health care subsidies; the effect of three women justices on the Court's patterns of decision; and the policy making role of state tribunals as they consider an increasing number of state programs and policies. New to this Edition: Discussions of recent judicial appointments take a critical look at how President Trump's victory has set the stage for moving the ideological direction of the Supreme Court and of the lower federal judiciary in a distinctly more conservative direction. An analysis of recent controversial Supreme Court decisions helps students to identify with the content by exploring issues such as citizenship rights for immigrants, gay and lesbian rights, and freedom of speech and religion. Additional tables and graphs illustrate the patterns and trends that are occurring in today's judicial process. New coverage of current topics helps students see how the judicial process is applied. These topics include the legality of Congress's feeble attempts to repeal and replace the Affordable Care Act that affects millions of people; how to address the issues of immigration and deportations; including what to do about so-called Dreamers: children brought illegally to the United States by their parents without the

children's knowledge and who have spent much or all of their lives here the status of abortion rights in America as more and more conservative states have sought to further restrict a woman's right to such a procedure the legal status of transgender persons in the armed forces the degree to which severely gerrymandered legislative districts pass constitutional muster and the great changes in the issue of same sex marriage both among average Americans and within the state and federal court systems including all the ancillary issues such as whether same sex couples can adopt children and obtain government fringe benefits

**The Oxford Handbook of Law and Politics** Keith E. Whittington, R. Daniel Kelemen, Gregory A.

Caldeira, 2010-06-10 The study of law and politics is one of the foundation stones of the discipline of political science and it has been one of the most productive areas of cross fertilization between the various subfields of political science and between political science and other cognate disciplines This Handbook provides a comprehensive survey of the field of law and politics in all its diversity ranging from such traditional subjects as theories of jurisprudence constitutionalism judicial politics and law and society to such re-emerging subjects as comparative judicial politics international law and democratization The Oxford Handbook of Law and Politics gathers together leading scholars in the field to assess key literatures shaping the discipline today and to help set the direction of research in the decade ahead

Judiciaries in

Comparative Perspective H. P. Lee, 2011-08-11 An independent and impartial judiciary is fundamental to the existence and operation of a liberal democracy Focussing on Australia Canada New Zealand South Africa the United Kingdom and the United States this comparative 2011 study explores four major issues affecting the judicial institution These issues relate to the appointment and discipline of judges judges and freedom of speech the performance of non-judicial functions by judges and judicial bias and recusal and each is set within the context of the importance of maintaining public confidence in the judiciary The essays highlight important episodes or controversies affecting members of the judiciary to illustrate relevant principles

Law as a Means to an End Brian Z. Tamanaha, 2006-10-02 The contemporary US legal culture is marked by ubiquitous battles among various groups attempting to seize control of the law and wield it against others in pursuit of their particular agenda This battle takes place in administrative legislative and judicial arenas at both the state and federal levels This book identifies the underlying source of these battles in the spread of the instrumental view of law the idea that law is purely a means to an end in a context of sharp disagreement over the social good It traces the rise of the instrumental view of law in the course of the past two centuries then demonstrates the pervasiveness of this view of law and its implications within the contemporary legal culture and ends by showing the various ways in which seeing law in purely instrumental terms threatens to corrode the rule of law

**Judicial Politics in the United States** Mark C. Miller, 2018-09-03 Judicial Politics in the United States examines the role of courts as policymaking institutions and their interactions with the other branches of government and other political actors in the US political system Not only does this book cover the nuts and bolts of the functions structures and processes of our courts and legal system it goes beyond other judicial process books by

exploring how the courts interact with executives legislatures and state and federal bureaucracies It also includes a chapter devoted to the courts interactions with interest groups the media and general public opinion and a chapter that looks at how American courts and judges interact with other judiciaries around the world Judicial Politics in the United States balances coverage of judicial processes with discussions of the courts interactions with our larger political universe making it an essential text for students of judicial politics Focus On: 100 Most Popular 20Th-century American Politicians Wikipedia contributors, Politics to the Extreme S. Frisch,S. Kelly,2013-12-11 To overcome the political deadlock that overshadows the pressing problems facing the United States the academics top scholars address the causes and consequences of polarization in American politics and suggest solutions for bridging the partisan divide *Judicial Selection in the States* Herbert M. Kritzer,2020-04-30 How do legal professionalism and politics influence efforts to structure the process of selecting and retaining state judges *Judgment Calls* Daniel A. Farber,Suzanna Sherry,2009 Judgment Calls tackles one of the most important and controversial legal questions in contemporary America How should judges interpret the Constitution Our Constitution contains a great deal of language that is vague broad or ambiguous making its meaning uncertain Many people believe this uncertainty allows judges too much discretion They suggest that constitutional adjudication is just politics in disguise and that judges are legislators in robes who read the Constitution in accordance with their own political views Some think that political decision making by judges is inevitable and others think it can be restrained by strict constructionist theories like textualism or originalism But at bottom both sorts of thinkers believe that judging has to be either tightly constrained and inflexible or purely political and unfettered There is they argue no middle ground Farber and Sherry disagree and in this book they describe and defend that middle ground They show how judging can be and often is both principled and flexible In other words they attempt to reconcile the democratic rule of law with the recognition that judges have discretion They explain how judicial discretion can be exercised responsibly describe the existing constraints that guide and cabin such discretion and suggest improvements In exploring how constitutional adjudication works in practice and how it can be made better Farber and Sherry cover a wide range of topics that are relevant to their thesis and also independently important including judicial opinion writing the use of precedent the judicial selection process the structure of the American judiciary and the nature of legal education They conclude with a careful look at how the Supreme Court has treated three of the most significant and sensitive constitutional issues terrorism abortion and affirmative action Timely trenchant and carefully argued Judgment Calls is a welcome addition to the literature on the intersection of constitutional interpretation and American politics *The Politics of Judicial Independence* Bruce Peabody,2011 2011 Winner of the Selection for Professional Reading List of the U S Marine Corps The judiciary in the United States has been subject in recent years to increasingly vocal aggressive criticism by media members activists and public officials at the federal state and local level This collection probes whether these attacks as well as proposals for reform

represent threats to judicial independence or the normal even healthy operation of our political system In addressing this central question the volume integrates new scholarship current events and the perennial concerns of political science and law The contributors policy experts established and emerging scholars and attorneys provide varied scholarly viewpoints and assess the issue of judicial independence from the diverging perspectives of Congress the presidency and public opinion Through a diverse range of methodologies the chapters explore the interactions and tensions among these three interests and the courts and discuss how these conflicts are expressed and competing interests accommodated In doing so they ponder whether the U S courts are indeed experiencing anything new and whether anti judicial rhetoric affords fresh insights Case studies from Israel the United Kingdom and Australia provide a comparative view of judicial controversy in other democratic nations A unique assessment of the rise of criticism aimed at the judiciary in the United States The Politics of Judicial Independence is a well organized and engagingly written text designed especially for students Instructors of judicial process and judicial policymaking will find the book along with the materials and resources on its accompanying website readily adaptable for classroom use

Diversity Matters Susan B. Haire, Laura P. Moyer, 2015-05-19 Until President Jimmy Carter launched an effort to diversify the lower federal courts the U S courts of appeals had been composed almost entirely of white males But by 2008 over a quarter of sitting judges were women and 15 percent were African American or Hispanic Underlying the argument made by administration officials for a diverse federal judiciary has been the expectation that the presence of women and minorities will ensure that the policy of the courts will reflect the experiences of a diverse population Yet until now scholarly studies have offered only limited support for the expectation that judges race ethnicity or gender impacts their decision making on the bench In Diversity Matters Susan B Haire and Laura P Moyer employ innovative new methods of analysis to offer a fresh examination of the effects of diversity on the many facets of decision making in the federal appellate courts Drawing on oral histories and data on appellate decisions through 2008 the authors analyses demonstrate that diversity on the bench affects not only individual judges choices but also the overall character and quality of judicial deliberation and decisions Looking forward the authors anticipate the ways in which these process effects will become more pronounced as a result of the highly diverse Obama appointment cohort

**Women in the Judiciary** Ulrike Schultz, Gisela Shaw, 2013-09-13 Does gender matter in judging And if so in what way Why were there so few women judges only two or three decades ago and why are there so many now in most countries of the Western world How do women judges experience their work in a previously male dominated environment What are their professional careers How do they organise and live their lives And finally and most notably do women judge differently from men or even better These are the questions dealt with in this collection of contributions by seven authors from six countries UK Australia USA Canada Syria and Argentina contrasting views from common law and civil law countries In spite of differences in the two legal systems as well as greater gender diversity on the bench and the overall higher income and prestige enjoyed by judges in common law



countries women judges in all these countries Syria included share many problems Diverse and intriguing facets are added to a debate that started thirty years ago but continues to leave ample space for further discussion This book was originally published as a special issue of International Journal of the Legal Profession

### **Judicial Politics in Polarized Times**

Thomas M. Keck, 2014-12-04 This important and timely discussion of judicial politics sheds light on America's courts as they rule on abortion gay rights gun rights and more Choice When the Supreme Court upheld the Affordable Care Act some saw the decision as a textbook example of neutral judicial decision making noting that a Republican Chief Justice joined the Court's Democratic appointees in their vote Others decried the decision as an example of partisan justice citing a Republican bloc of Court appointees who voted to strike the statute down Still others argued that the ACA's fate ultimately hinged not on the Court but on the outcome of the 2012 election These interpretations reflect larger shifts in judicial politics that have emerged in today's increasingly polarized America Are judges neutral legal umpires unaccountable partisan activists or political actors whose decisions conform to rather than challenge the democratic will Drawing on a sweeping survey of hot button litigation on abortion affirmative action gay rights and gun rights across the Clinton Bush and Obama eras Thomas M Keck argues that while each of these perspectives has merit each is also misleading Despite judges' claims actual legal decisions are not the politically neutral products of disembodied legal texts But neither are judges tyrants in robes undermining democratic values by imposing their own preferences Just as often judges and the public seem to be pushing in the same direction As for the argument that the courts are powerless institutions Keck shows that their decisions have profound political effects And while advocates on both the left and right use litigation to achieve their ends neither side has consistently won Ultimately Keck argues judges respond not simply as umpires activists or political actors but in light of distinctive judicial values and practices

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