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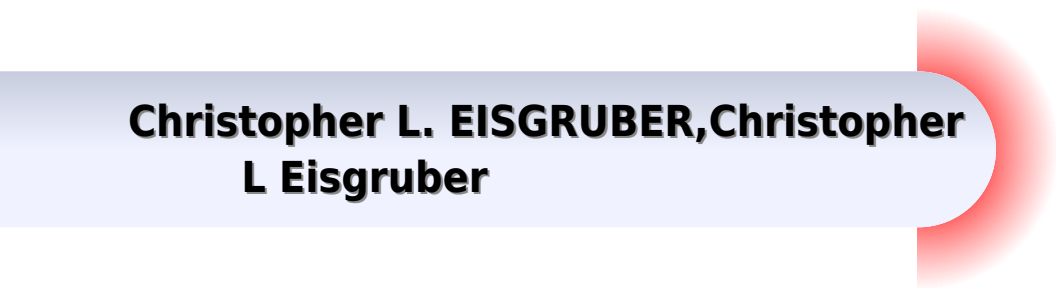
THE SUPREME COURT,

AND THE ABORTION DEBATE

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Shaping Constitutional Values Elected Government The Supreme Court And The Abortion Debate

**Christopher L. EISGRUBER, Christopher
L Eisgruber**



Shaping Constitutional Values Elected Government The Supreme Court And The Abortion Debate:

Shaping Constitutional Values Neal Devins, 1996 In the more than twenty years since *Roe v Wade* the executive and legislative branches of government have pursued a staggering number of initiatives relating to abortion In this groundbreaking study legal scholar Neal Devins shows how the Supreme Court elected government and private citizens together help to shape what the Constitution means Central to his study is the question of how the Court and elected government influence each other In addition to the abortion debate Devins examines conflicts over federalism race religion and separation of powers These constitutional disputes Devins contends can be as constructive as they are inevitable Without an ongoing dynamic that allows each side to win some of the time Devins concludes the Constitution would be less enduring

Defending Congress and the Constitution Louis Fisher, 2011-09-07 The culmination of four decades of research and service on behalf of Congress Louis Fisher's latest work is a fitting capstone to a remarkable career as scholar and writer and presents his most articulate passionate and persuasive defense yet of Congress as an institution Our nation's leading authority on the separation of powers Fisher offers a lucid primer on our nation's government and its executive legislative and judicial branches while vigorously advocating a robust reassertion of Congress's rightful role within that system Drawing on a wide range of legislation Supreme Court rulings and presidential decisions Fisher illuminates the contentious contest among the three major branches for power and control of government presents a panorama of American history and touches on issues as wide ranging as federalism religious freedom and national security policy Fisher is especially critical of the stereotypical view of the Supreme Court's decisions as possessing a kind of effectiveness and absolute finality that transcends the efforts and powers of Congress Indeed he argues that Congress as much or more than the judiciary has had a major positive impact on protecting individual rights in this country while the judiciary has fallen short in such areas as child labor regulation and compulsory flag salute or has attempted to settle a constitutional issue only to have it fester for years breeding anger and resentment until the political process forces the courts rethink their views He highlights legislative accomplishments in many areas often in the face of judicial opposition and obstruction but also chides Congress for not protecting its key prerogatives over the power of the purse and going to war In yielding to other branches Fishers warns lawmakers fail to represent their constituents and cripple the very system of checks and balances the Framers counted on to limit the destructive capacity of government His book offers a wealth of forceful insights and provides an important reminder of and guide to how our government should really work **Congress, the Court, and the Constitution** United States.

Congress. House. Committee on the Judiciary. Subcommittee on the Constitution, 1999 **Originalism, Federalism, and the American Constitutional Enterprise** Edward A. Purcell, 2007-12-28 In this lively historical examination of American federalism a leading scholar in the field refutes the widely accepted notion that the founding fathers carefully crafted a constitutional balance of power between the states and the federal government Edward A Purcell Jr bases his argument on

close analysis of the Constitution's original structure and the ways that structure both induced and accommodated changes over the centuries. There was no clear agreement among the founding fathers regarding the true nature of American federalism. Purcell contends nor was there a consensus on correct lines dividing state and national authority. Furthermore even had there been some true original understanding the elastic and dynamic nature of the constitutional structure would have made it impossible for subsequent generations to maintain any original or permanent balance. The author traces the evolution of federalism through the centuries focusing particularly on shifting interpretations founded on political interests. He concludes with insights into current issues of federal power and a discussion of the grounds on which legitimate decisions about federal and state power should rest.

[The American Supreme Court](#) Robert G. McCloskey, 2010-07-15 Celebrating its fiftieth anniversary Robert McCloskey's classic work on the Supreme Court's role in constructing the U.S. Constitution has introduced generations of students to the workings of our nation's highest court. For this new fifth edition Sanford Levinson extends McCloskey's magisterial treatment to address the Court's most recent decisions. As in prior editions McCloskey's original text remains unchanged. In his historical interpretation he argues that the strength of the Court has always been its sensitivity to the changing political scene as well as its reluctance to stray too far from the main currents of public sentiments. In two revised chapters Levinson shows how McCloskey's approach continues to illuminate developments since 2005 including the Court's decisions in cases arising out of the War on Terror which range from issues of civil liberty to tests of executive power. He also discusses the Court's skepticism regarding campaign finance regulation its affirmation of the right to bear arms and the increasingly important nomination and confirmation process of Supreme Court justices including that of the first Hispanic justice Sonia Sotomayor. The best and most concise account of the Supreme Court and its place in American politics. McCloskey's wonderfully readable book is an essential guide to the past present and future prospects of this institution.

Constitutional Self-Government Christopher L. EISGRUBER, Christopher L. Eisgruber, 2009-06-30 Most of us regard the Constitution as the foundation of American democracy. How then are we to understand the restrictions that it imposes on legislatures and voters? Why for example does the Constitution allow unelected judges to exercise so much power? And why is this centuries-old document so difficult to amend? In short how can we call ourselves a democracy when we are bound by an entrenched and sometimes counter-majoritarian constitution? In *Constitutional Self-Government* Christopher Eisgruber focuses directly on the Constitution's seemingly undemocratic features. Whereas other scholars have tried to reconcile these features with majority rule or simply acknowledged them as necessary limits on democracy Eisgruber argues that constitutionalism is best regarded not as a constraint upon self-government but as a crucial ingredient in a complex non-majoritarian form of democracy. In an original and provocative argument he contends that legislatures and elections provide only an incomplete representation of the people and he claims that the Supreme Court should be regarded as another of the institutions able to speak for Americans about justice. At a pivotal moment of worldwide interest in judicial review and

renewed national controversy over the Supreme Court's role in politics Constitutional Self Government ingeniously locates the Constitution's value in its capacity to sustain an array of institutions that render self government meaningful for a large and diverse people

Constitutional Deliberation in Congress J. Mitchell Pickerill, 2004-05-17 Analyzes the impact of the Supreme Court's constitutional decisions and its judicial review of statutes on lawmaking in Congress

Judicial Review in New Democracies Tom Ginsburg, 2003-07-23 New democracies around the world have adopted constitutional courts to oversee the operation of democratic politics Where does judicial power come from how does it develop in the early stages of democratic liberalization and what political conditions support its expansion This book answers these questions through an examination of three constitutional courts in Asia Taiwan Korea and Mongolia In a region that has traditionally viewed law as a tool of authoritarian rulers constitutional courts in these three societies are becoming a real constraint on government In contrast with conventional culturalist accounts this book argues that the design and functioning of constitutional review are largely a function of politics and interests Judicial review the power of judges to rule an act of a legislature or national leader unconstitutional is a solution to the problem of uncertainty in constitutional design By providing insurance to prospective electoral losers judicial review can facilitate democracy

The Selling of Supreme Court Nominees John Anthony Maltese, 1998-04-24 In The Selling of Supreme Court Nominees Maltese traces the evolution of the contentious and controversial confirmation process awaiting today's nominees to the nation's highest court His story begins in the second half of the nineteenth century when social and technological changes led to the rise of organized interest groups Despite occasional victories Maltese explains structural factors limited the influence of such groups well into this century Until 1913 senators were not popularly elected but chosen by state legislatures undermining the potent threat of electoral retaliation that interest groups now enjoy And until Senate rules changed in 1929 consideration of Supreme Court nominees took place in almost absolute secrecy Floor debates and the final Senate vote usually took place in executive session Even if interest groups could retaliate against senators they often did not know whom to retaliate against

The Democratic Constitution, 2nd Edition Neal Devins, Louis Fisher, 2015-09-01 Constitutional law is clearly shaped by judicial actors But who else contributes Scholars in the past have recognized that the legislative branch plays a significant role in determining structural issues such as separation of powers and federalism but stopped there claiming that only courts had the independence and expertise to safeguard individual and minority rights In this readable and engaging narrative the authors identify the nuts and bolts of the national dialogue and relate succinct examples of how elected officials and the general public often dominate the Supreme Court in defining the Constitution's meaning Making use of case studies on race privacy federalism war powers speech and religion Devins and Fisher demonstrate how elected officials uphold individual rights in such areas as religious liberty and free speech as well as and often better than the courts This fascinating debunking of judicial supremacy argues that nonjudicial contributions to constitutional interpretation make the Constitution more stable

more consistent with constitutional principles and more protective of individual and minority rights

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