



RADICALS IN ROBES

**Why Extreme
Right-Wing Courts
Are Wrong
for America**

CASS R.
SUNSTEIN

Author of Republic.com

Radicals In Robes Why Extreme Right Wing Courts Are Wrong For America

Cass R. Sunstein



Radicals In Robes Why Extreme Right Wing Courts Are Wrong For America:

Radicals in Robes Cass R. Sunstein, 2009-04-28 Most people think that the Supreme Court has a rough balance between left and right This is a myth in fact the justices once considered right wing have now taken the mantle of the Court's moderates and the liberal element has all but disappeared Most people also think that judicial activism is solely a liberal movement This is also a myth since William Rehnquist was confirmed as Chief Justice in 1986 the Supreme Court has engaged in an unprecedented record of judicial activism These two factors are feeding a movement to restore what many conservatives call *The Constitution in Exile* by which they mean the Constitution as it existed before the Roosevelt administration *Radicals in Robes* explains what the restoration of this constitutional vision would mean It would mean the end of the FCC the SEC the EPA and every other federal agency that enacts regulations that have the force of law It would mean that the clause of the First Amendment that says that Congress may make no law respecting an establishment of religion would be turned on its head Marriage laws and many other familiar areas of modern life are all in the sights of this conservative movement *Radicals in Robes* takes judicial philosophy out of the law schools and shows what it means when it intersects partisan politics It pulls away the veil of rhetoric from a dangerous and radical right wing movement and issues a strong and passionate warning about what conservatives really intend One of the most respected legal theorists in the country Cass R. Sunstein here issues a warning of compelling concern to us all **Radicals in Robes** Cass R.

Sunstein, 2011-04 Many think the Supreme Court is roughly balanced between left and right but this is a myth In fact the justices once considered right wing are now the Court's moderates those who were once centrists are now the Court's liberals and the liberal element has all but disappeared Many also think that judicial activism is the province of liberals This is also a myth since 1986 the Court has struck down decisions of Congress more than 30 times an unprecedented record of judicial activism Sunstein explains that the conservative constitutional vision would endanger environmental regulations campaign finance laws the right to privacy and many federal agencies such as the FCC the SEC and the EPA Sunstein here issues a warning of compelling concern to us all *Constituting Economic and Social Rights* Katharine G. Young, 2012-08-23 Food water health housing and education are as fundamental to human freedom and dignity as privacy religion or speech Yet only recently have legal systems begun to secure these fundamental individual interests as rights This book looks at the dynamic processes that render economic and social rights in legal form It argues that processes of interpretation enforcement and contestation each reveal how economic and social interests can be protected as human and constitutional rights and how their protection changes public law Drawing on constitutional examples from South Africa Colombia Ghana India the United Kingdom the United States and elsewhere the book examines innovations in the design and role of institutions such as courts legislatures executives and agencies in the organization of social movements and in the links established with market actors This comparative study shows how legal systems protect economic and social rights by shifting the focus from minimum

bundles of commodities or entitlements to processes of value based deliberative problem solving Theories of constitutionalism and governance inform the potential of this approach to reconcile economic and social rights with both democratic and market principles while addressing the material inequality poverty and social conflict caused in part by law itself

The Nine Jeffrey Toobin, 2008-09-09 Acclaimed journalist Jeffrey Toobin takes us into the chambers of the most important and secret legal body in our country the Supreme Court revealing the complex dynamic among the nine people who decide the law of the land An institution at a moment of transition the Court now stands at a crucial point with major changes in store on such issues as abortion civil rights and church state relations Based on exclusive interviews with the justices and with a keen sense of the Court s history and the trajectory of its future Jeffrey Toobin creates in *The Nine* a riveting story of one of the most important forces in American life today

Constitutional Change and Transformation in Latin America Richard Albert, Carlos Bernal, Julian Zaiden Benvindo, 2019-07-25 Over the past 30 years Latin America has lived through an intense period of constitutional change Some reforms have been limited in their design and impact while others have been far reaching transformations to basic structural features and fundamental rights Scholars interested in the law and politics of constitutional change in Latin America are turning increasingly to comparative methodologies to expose the nature and scope of these changes to uncover the motivations of political actors to theorise how better to execute the procedures of constitutional reform and to assess whether there should be any limitations on the power of constitutional amendment In this collection leading and emerging voices in Latin American constitutionalism explore the complexity of the vast topography of constitutional developments experiments and perspectives in the region This volume offers a deep understanding of modern constitutional change in Latin America and evaluates its implications for constitutionalism democracy human rights and the rule of law

Rediscovering Rhetoric Justin T. Gleeson, Ruth C. A. Higgins, 2008 Rhetoric is ubiquitous in modern discourse from arguments delivered in the High Court to advertisements disseminated in the high street For the legal and political advocate persuasion is also a professional technique that must be perfected properly to practise each art In contrast with the classical era and the middle ages in which grammar rhetoric and dialectic were basic features of all education modern curricula almost entirely neglect any theoretical study of the methods of rhetoric *Rediscovering Rhetoric* re introduces to modern practitioners and students a grasp of the speeches writings and methodologies of the great classical scholars of rhetoric Part 1 *Law and Language in the Greco Roman Tradition* provides a contextualised introduction to significant theorists of rhetoric in the classical period and consists of four chapters written by practising barristers and a current Justice of the Federal Court of Australia Part 2 *The Practice of Persuasion* comprises essays by practitioners distinguished in their pursuit of legal persuasion one former and two current Justices of the High Court of Australia illuminating their experiences of argument from the perspective of both bench and bar Part 3 *The Politics of Persuasion* performs a similar function to Part 2 in the related domain of politics It includes a chapter by Graham

Freudenberg former speechwriter for Gough Whitlam and others Together the three parts provide a unique inter disciplinary perspective on the theory and practice of legal and political persuasion Published in association with the NSW Bar Association **Broken Government** John Wesley Dean,2007 Offers a critical assessment of the Republican Party and its core conservatives assessing a decline in all three government branches since the presidency of Nixon while making a case for the next administration s responsibility in correcting key problems *The Legacy of Ruth Bader Ginsburg* Scott Dodson,2022-03-10 This anthology chronicles the legal legacy of Ruth Bader Ginsburg **Constitutional Politics in a Conservative Era** Austin Sarat,2008-05-05 Aims to bring together the work of leading scholars of Constitutionalism Constitutional law and politics in the United States to take stock of the field to chart its progress and point the way for its future development **Encyclopedia of American Civil Rights and Liberties** Kara E. Stooksbury,John M. Scheb II,Otis H. Stephens Jr.,2017-09-21 Thoroughly updated and featuring 75 new entries this monumental four volume work illuminates past and present events associated with civil rights and civil liberties in the United States This revised and expanded four volume encyclopedia is unequaled for both the depth and breadth of its coverage Some 650 entries address the full range of civil rights and liberties in America from the Colonial Era to the present In addition to many updates of material from the first edition the work offers 75 new entries about recent issues and events among them dozens of topics that are the subject of close scrutiny and heated debate in America today There is coverage of controversial issues such as voter ID laws the use of drones transgender issues immigration human rights and government surveillance There is also expanded coverage of women s rights gay rights gay marriage and Native American rights Entries are enhanced by 42 primary documents that have shaped modern understanding of the extent and limitations of civil liberties in the United States including landmark statutes speeches essays court decisions and founding documents of influential civil rights organizations Designed as an up to date reference for students scholars and others interested in the expansive array of topics covered the work will broaden readers understanding of and appreciation for the people and events that secured civil rights guarantees and concepts in this country At the same time it will help readers better grasp the reasoning behind and ramifications of 21st century developments like changing applications of Miranda Rights and government access to private Internet data Maintaining an impartial stance throughout the entries objectively explain the varied perspectives on these hot button issues allowing readers to draw their own conclusions *Law's Allure* Gordon Silverstein,2009-02-09 Law s Allure explains how when and why America s reliance on legal rules and judicial decisions shapes constrains saves and sometimes even kills politics

Measuring Judicial Activism Stefanie Lindquist, Frank Cross,2009-04-23 Measuring Judicial Activism supplies empirical analysis to the widely discussed concept of judicial activism at the United States Supreme Court The book seeks to move beyond more subjective debates by conceptualizing activism in non ideological terms *American Original* Joan Biskupic,2025-08-22 The first full scale biography of the Supreme Court s most provocative and influential justice If the U S

Supreme Court teaches us anything it is that almost everything is open to interpretation Almost But what s inarguable is that while the Court has witnessed a succession of larger than life jurists in its two hundred year plus history it has never seen the likes of Supreme Court Justice Antonin Scalia Combative yet captivating infuriating yet charming the outspoken jurist remains a source of curiosity to observers across the political spectrum and on both sides of the ideological divide And after nearly a quarter century on the bench Scalia may be at the apex of his power Agree with him or not Scalia is the justice who has had the most important impact over the years on how we think and talk about the law as the Harvard law dean Elena Kagan now U S Solicitor General once put it Scalia electrifies audiences to hear him speak is to remember him to read his writing is to find his phrases permanently affixed in one s mind But for all his public grandstanding Scalia has managed to elude biographers until now In American Original The Life and Constitution of Supreme Court Justice Antonin Scalia the veteran Washington journalist Joan Biskupic presents for the first time a detailed portrait of this complicated figure and provides a comprehensive narrative that will engage Scalia s adherents and critics alike Drawing on her long tenure covering the Court and on unprecedented access to the justice Biskupic delves into the circumstances of his rise and the formation of his rigorous approach to the bench Beginning with the influence of Scalia s childhood in a first generation Italian American home American Original takes us through his formative years his role in the Nixon Ford administrations and his trajectory through the Reagan revolution Biskupic s careful reporting culminates with the tumult of the contemporary Supreme Court where it was and where it s going with Scalia helping to lead the charge Even as Democrats control the current executive and legislative branches the judicial branch remains rooted in conservatism President Obama will likely appoint several new justices to the Court but it could be years before those appointees change the tenor of the law With his keen mind authoritarian bent and contentious rhetorical style Scalia is a distinct and persuasive presence and his tenure is far from over This new book shows us the man in power his world his journey and the far reaching consequences of the transformed legal landscape

Fundamental Rights in Europe Federico Fabbrini, 2014-02-13 The European architecture for the protection of fundamental rights combines the legal regimes of the states the European Union and the European Convention on Human Rights The purpose of this book is to analyse the constitutional implications of this multilevel architecture and to examine the dynamics that spring from the interaction between different human rights standards in Europe The book adopts a comparative approach and through a comparison with the federal system of the United States it advances an analytical model that systematically explains the dynamics at play in the European multilevel human rights architecture It identifies two recurrent challenges in the interplay between different state and transnational human rights standards a challenge of ineffectiveness when transnational law operates as a ceiling of protection for a specific human right and a challenge of inconsistency when transnational law operates as a floor and considers the most recent transformations taking place in the European human rights regime The book tests the model of challenges and transformations by examining in depth four case

studies the right to due process for suspected terrorists the right to vote for non citizens the right to strike and the right to abortion In light of these examples the book then concludes by reassessing the main theories on the protection of fundamental rights in Europe and making the case for a new vision a neo federal theory which is able to frame the dilemmas of identity equality and supremacy behind the European multilevel architecture for the protection of human rights

Values in the Supreme Court Rachel Cahill-O'Callaghan,2020-02-20 This book examines the significance of values in Supreme Court decision making Drawing on theories and techniques from psychology it focuses on the content analysis of judgments and uses a novel methodology to reveal the values that underpin decision making The book centres on cases which divide judicial opinion Dworkin s hard cases in which the result is not clearly dictated by statute or precedent In hard cases there is real uncertainty about the legal rules that should be applied and factors beyond traditional legal sources may influence the decision making process It is in these uncertain cases where legal developments can rest on a single judicial decision that values are revealed in the judgments The findings in this book have significant implications for developments in law judicial decision making and the appointment of the judiciary **Ordered Liberty** James E. Fleming,Linda C.

McClain,2013-01-01 Fleming and McClain defend a civic liberalism that takes seriously not just rights but responsibilities and virtues Issues taken up include same sex marriage reproductive freedom regulation of civil society and the family education of children and clashes between First Amendment freedoms of association and religion and antidiscrimination law

The Cycles of Constitutional Time J. M. Balkin,2020 The Cycles of Constitutional Time shows where American democracy has been and projects where it is going Jack Balkin explains why our politics seems so dysfunctional and why fights over the courts seem so bitter and unhinged He portrays our present troubles in terms of longer constitutional trends In doing so he also offers a message of hope for the future The same trends that put us in this predicament are slowly changing Our political system can get better if Americans mobilize to change it *The Second Amendment* Michael Waldman,2015-05-26 Presents a history of the Second Amendment to illuminate its controversies debates and misapprehensions explaining its contexts and purposes while revealing how it came to represent gun ownership rights in the twentieth century James J. Kilpatrick William P. Hustwit,2013-05-01 James J Kilpatrick was a nationally known television personality journalist and columnist whose conservative voice rang out loudly and widely through the twentieth century As editor of the Richmond News Leader writer for the National Review debater in the Point Counterpoint portion of CBS s 60 Minutes and supporter of conservative political candidates like Barry Goldwater Kilpatrick had many platforms for his race based brand of southern conservatism In James J Kilpatrick Salesman for Segregation William P Hustwit delivers a comprehensive study of Kilpatrick s importance to the civil rights era and explores how his protracted resistance to both desegregation and egalitarianism culminated in an enduring form of conservatism that revealed a nation s unease with racial change Relying on archival sources including Kilpatrick s personal papers Hustwit provides an invaluable look at what

Gunnar Myrdal called the race problem in the white mind at the intersection of the postwar conservative and civil rights movements Growing out of a painful family history and strongly conservative political cultures Kilpatrick s personal values and self interested opportunism contributed to America s ongoing struggles with race and reform

The Judicial Branch of Federal Government Charles L. Zelden, 2007-07-12 This volume in ABC CLIO s About Federal Government set looks at the history and daily operations of the federal judiciary from district courts to courts of appeal to the Supreme Court The Judicial Branch of Federal Government People Process and Politics shows how the federal courts act as interpreters of the law definers of rules and shapers of policy covering the judiciary throughout U S history and as it functions today In one concise yet comprehensive resource The Judicial Branch of Federal Government describes the constitutionally ascribed roles and structures of the courts It looks at the men and women who serve on the federal bench who they are and how they are appointed as well as the fascinating relationship of the federal courts with the legislative and executive branches and with the 50 state court systems

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