

THE JUDICIAL
DEVELOPMENT
OF PRESIDENTIAL
WAR POWERS

Martin S. Sheffer

The Judicial Development Of Presidential War Powers

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The Judicial Development Of Presidential War Powers:

The Judicial Development of Presidential War Powers Martin S. Sheffer, 1999-02-28 Sheffer deals with some of the oldest continuing constitutional problems confronting the American government the judicial development of presidential war powers potential constitutional dictatorship and a wartime constitution What enhances these problems is the very cryptic language presented by Article II itself First the generalities of Article II are read expansively enough to cover specific presidential actions while a theory of inherent powers tends to justify the means This combination of action and theory Sheffer asserts presumes that ends and means are determined only by the president The end result is that presidential action takes on the characteristics of constitutional power As this casebook demonstrates in times of grave national emergency especially war the president acts as a constitutional dictator There is a tacit understanding that nothing will be permitted to block the winning of the war What is necessary as determined by the chief executive is done The president must insure the national survival Legal niceties are given little attention Congress does not interfere with the manner in which the president conducts a war it is a ready ally in almost everything he does so long as he continues to be successful As the cases demonstrate the courts seek to avoid having to rule on the president's conduct but when they do rule they usually uphold the president

Presidential War Power Louis Fisher, 2013-08-19 A classic and bestselling work by one of America's top Constitutional scholars Presidential War Power garnered the lead review in the New York Times Book Review and raised essential issues that have only become more timely relevant and controversial in our post 9 11 era In this third edition Louis Fisher updates his arguments throughout critiques the presidential actions of George W Bush and Barack Obama and challenges what he views as their dangerous expansion of executive power Spanning the life of the Republic from the Revolutionary Era to the War on Terror the new edition covers for the first time Indefinite detention of civilians and non civilians without trial President Obama's failed effort to close Guantanamo NSA wiretapping and Fourth Amendment violations Presidential decision making relating to the wind down of the wars in Iraq and Afghanistan U S military operations against Libya in 2011 Continued abuse of the state secrets privilege in national security court cases Secret legal memos justifying the use of UAVs or drones for targeted killings overseas Extended comparison of the expansion of executive power under George W Bush and Barack Obama

The Political Question Doctrine and the Supreme Court of the United States Nada Mourtada-Sabbah, Bruce E. Cain, 2007-01-01 Historically the political question doctrine has held the courts from resolving constitutional issues that are better left to other departments of government as a way of maintaining the system of checks and balances However this book discusses the gradual changes in the parameters of the doctrine including its current position dealing with increasingly extraterritorial concerns

Constitutional Law for a Changing America Lee Epstein, Thomas G. Walker, 2016-02-02 Judicial decisions are influenced by myriad political factors from lawyers and interest groups to the shifting sentiments of public opinion to the ideological and behavioral inclinations of the justices Authors Lee

Epstein and Thomas G Walker show how these dynamics shape the development of constitutional doctrine Known for fastidious revising and streamlining the authors incorporate the latest scholarship in the fields of both political science and legal studies and offer rock solid analysis of both classic and contemporary landmark cases including key opinions handed down through the 2015 session Filled with supporting material photographs of the litigants sidebars comparing the U S with other nations and Aftermath boxes that tell the stories of the parties lives after the Supreme Court has acted the text encourages greater student engagement with the material and a more complete understanding of the American constitution

Congressional Abdication on War and Spending Louis Fisher,2000 For thirty years Fisher has observed informed and even influenced Congress from his position in the Congressional Research Service As a scholar he has studied and published several important books on the separation of powers Now for the first time he not only summarizes the well informed observations of a distinguished career but also analyzes the reasons for this congressional failure of will and advocates practical ways to redress the balance *Presidential Government* Benjamin Ginsberg,2016-05-28 Noted political scientist Benjamin Ginsberg has written an essential text for courses on the United States presidency An invaluable resource Ginsberg s comprehensive analysis emphasizes the historical constitutional and legal dimensions of presidential power He explores the history and essential aspects of the office the president s relationship to the rest of the executive branch and to a subordinated Congress and the evolution of the American president from policy executor to policy maker Compelling photo essays delve into topics of special interest including First Spouses Presidential Eligibility and Congressional Investigations of the White House

Research Handbook on Law and Courts Susan M. Sterett, Lee Demetrius Walker,2019 The Research Handbook on Law and Courts provides a systematic analysis of new work on courts as governing institutions Authors consider how courts have taken on regulating fundamental categories of inclusion and exclusion including citizenship rights Courts centrality to governance is addressed in sections on judicial processes sub national courts and political accountability all analyzed in multiple legal political systems Other chapters turn to analyzing the worldwide push for diversity in staffing courts Finally the digitization of records changes both court processes and studying courts Authors included in the Handbook discuss theoretical empirical and methodological approaches to studying courts as governing institutions They also identify promising areas of future research The War Power Louis Fisher,2008

Presidential Power Matthew A. Crenson,Benjamin Ginsberg,2007 This book explores how American presidents especially those of the past three decades have increased the power of the presidency at the expense of democracy **Journal of Legal Studies** , **The Imperial**

Presidency and American Politics Benjamin Ginsberg,2021-07-27 Those who saw Donald Trump as a novel threat looming over American democracy and now think the danger has passed may not have been paying much attention to the political developments of the past several decades Trump was merely the most recent and will surely not be the last in a long line of presidents who expanded the powers of the office and did not hesitate to act unilaterally when so doing served their purposes

Unfortunately Trump is also unlikely to be the last president prepared to do away with his enemies in the Congress and transform the imperial presidency from a theory to a reality Though presidents are elected more or less democratically the presidency is not and was never intended to be a democratic institution The framers thought that America would be governed by its representative assembly the Congress of the United States Presidential power like a dangerous pharmaceutical might have been labelled to be used only when needed Today Congress sporadically engages in law making but the president actually governs Congress has become more an inquisitorial than a legislative body Presidents rule through edicts while their opponents in the Congress counter with the threat of impeachment an action that amounts to a political albeit nonviolent coup The courts sputter and fume but generally back the president This is the new separation of powers the president exercises power and the other branches are separated from it Where will this end Regardless of who occupies the Oval Office the imperial presidency is inexorably bringing down the curtain on American representative democracy The Supreme Court Paul Finkelman, 2014-01-15 An insightful chronological by chief justice examination of the Supreme Court that enables students and readers to understand and appreciate the constitutional role the Court plays in American government and society American citizens need to understand the importance of the Supreme Court in determining how our government and society operates regardless of whether or not they agree with the Court s opinions Unfortunately the role and powers of the third branch of government are not well understood by the American public After an introduction and overview to the history of the Supreme Court from 1789 to 2013 this book examines the Court s decisions chronologically by Chief Justice allowing readers to grasp how the role and powers of the Court have developed and shifted over time The chapters depict the Court as the essential agent of review and an integrated part of the government regardless of the majority minority balance on the Court and of which political party is in the White House or controlling the House or Senate **Commander in Chief** Casey B. K. Dominguez, 2024-05-24 The constitutional balance of war powers has shifted from Congress to the president over time Today presidents broadly define their constitutional authority as commander in chief In the nineteenth century however Congress was the institution that claimed and defended expansive war power authority This discrepancy raises important questions How specifically did Congress define the boundaries between presidential and congressional war powers in the early republic Did that definition change and if so when how and why did it do so Based on an original comprehensive dataset of every congressional reference to the commander in chief clause from the Founding through 1917 Casey Dominguez s **Commander in Chief** systematically analyzes the authority that members of Congress ascribe to the president as commander in chief and the boundaries they put around that authority Dominguez shows that for more than a century members of Congress defined the commander in chief s authority narrowly similar to that of any high ranking military officer But in a wave of nationalism during the Spanish American War members of Congress began to argue that Congress owed deference to the commander in chief They also tended to argue that a president of their own party should have broad war powers while

the powers of a president in the other party should be defined narrowly Together these two dynamics suggest that the conditions for presidentially dominated modern constitutional war powers were set at the turn of the twentieth century far earlier than is often acknowledged *The Oxford Handbook of the American Presidency* George C. Edwards,William G. Howell,2011-08-04 With engaging new contributions from major figures in the field The Oxford Handbook of the American Presidency provides the key point of reference for anyone working in American politics today **Constitutional Ambiguity and the Interpretation of Presidential Power** Richard W. Waterman,2025-02-01 Examines the role of constitutional ambiguity across the entire spectrum of American history and how it impacts our interpretation of presidential power While the rise of autocratic presidential powers has been widely noted by scholars in recent years with calls by some for a stronger or more accountable presidency Constitutional Ambiguity and the Interpretation of Presidential Power is among the first entirely dedicated to a study of the impact of this ambiguity on how scholars judges and presidents have understood executive power Embarking on a detailed examination of legal historical and political science literature across the broad scope of American history Richard W Waterman examines the concerns of the Constitution s Framers regarding the fear of monarchy and a tyrannical president He then discusses the writing and ratification of the Constitution and by drawing on insights from the time of the Framers to the present day he provides a unique historical timeline related to the discussion and analysis of constitutional ambiguity Over the course of several chapters he finds that no sole theory defines presidential power and ambiguity rules the day allowing presidents to find power in the Constitution s silences as well as its various nooks and crannies which has led to the very real danger of an autocratic presidency **The Politics of the Presidency** John Anthony Maltese,Andrew Rudalevige,Joseph A. Pika,2025-02-24 Get insightful coverage and analysis of the U S presidency with this comprehensive text Never losing sight of the foundations of the office The Politics of the Presidency maintains a balance between historical context and contemporary scholarship on the executive branch providing a solid foundation for any presidency course In this Revised Eleventh Edition Maltese Rudalevige and Pika thoroughly analyze the change and continuity following the November 2024 presidential election **Terrorism, the Laws of War, and the Constitution** Peter Berkowitz,2005 Civil liberties versus national security new issues raised by a new kind of war Terror in the Balance Eric A. Posner,Adrian Vermeule,2007-01-04 In *Terror in the Balance* Posner and Vermeule take on civil libertarians of both the left and the right arguing that the government should be given wide latitude to adjust policy and liberties in the times of emergency They emphasize the virtues of unilateral executive actions and argue for making extensive powers available to the executive as warranted The judiciary should neither second guess security policy nor interfere on constitutional grounds In order to protect citizens government can and should use any legal instrument that is warranted under ordinary cost benefit analysis The value gained from the increase in security will exceed the losses from the decrease in liberty At a time when the struggle against violent extremism dominates the United States agenda this important and

controversial work will spark discussion in the classroom and intellectual press alike Constitutionalization of Politics in Comparative Perspective Paweł Laidler, Dariusz Stoliczka, Łukasz Jakubiak, Jacek Sokołowski, 2024-11-25 Scholars from political science and law examine the latest research on the constitutionalization of politics in comparative perspective The scope includes both inter country and intra country perspectives institutional and systemic analyses common and civil law systems focusing on historical and contemporary case studies There are chapters limited to a concrete legal and political system analyzing the tools and processes guarding constitutionalization of politics in such countries as the United States Germany France Italy Poland Finland and Bulgaria as well as studies offering comparative analysis of various institutions representing different countries and different legal and political systems Taken together this book uncovers a wide variety of legal and political cultures systems of governments and forms of territorial organization Once uncovered this approach makes it easier to determine repetitive patterns which may be observed in constitutional review and constitutional interpretation or significant differences occurring in the models of constitutionalization of politics around the world Constitutionalization of Politics in Comparative Perspective tackles important debates among academics interested in the theoretical and practical aspects of constitutions and constitutionalism and will appeal to social scientists including sociologists philosophers security studies and international relations experts but also cultural studies scholars *Encyclopedia of American Foreign Policy* Glenn P. Hastedt, 2014-05-14 Presents an A to Z reference guide that examines United States foreign policy

The Judicial Development Of Presidential War Powers Book Review: Unveiling the Magic of Language

In an electronic digital era where connections and knowledge reign supreme, the enchanting power of language has become more apparent than ever. Its ability to stir emotions, provoke thought, and instigate transformation is truly remarkable. This extraordinary book, aptly titled "**The Judicial Development Of Presidential War Powers**," compiled by a very acclaimed author, immerses readers in a captivating exploration of the significance of language and its profound impact on our existence. Throughout this critique, we shall delve into the book's central themes, evaluate its unique writing style, and assess its overall influence on its readership.

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