
The Supreme Court and the Judicial Function



Edited by Philip B. Kurland

Supreme Court And The Judicial Function

Joe McIntyre



Supreme Court And The Judicial Function:

The Supreme Court and the Judicial Function Philip B. Kurland, 1975-11 The papers in this collection are drawn from the annual The Supreme Court Review which since its inception in 1960 has been regarded by such legal scholars as Robert F Drinnan S J as An indispensable universally quoted work of the highest scholarship regarding the world s most influential tribunal Now some of the most important contributions to the Review have been brought together in paperback editions that focus on issues that are becoming increasingly relevant to the ordinary citizen s daily life **The Supreme Court and the**

Judicial Function Philip B. Kurland, 1971 The International Court of Justice and the Judicial Function Gleider I Hernández, 2014-05-29 This book evaluates the concept of the function of law through the prism of the International Court of Justice It goes beyond a conventional analysis of the Court s case law and applicable law to consider the compromise between supranational order and state sovereignty that lies at the heart of its institutional design It argues that this compromise prevents the Court from playing a progressive role in the development of international law Instead it influences the international legal order in more subtle ways in particular in shaping understanding of the nature or form of the international legal order as a whole The book concludes that the role of the Court is not to advance some universal conception of international law but rather to decide the cases before it in the best possible way within its institutional limits while remaining aware of law s deeper theoretical foundations The book considers three key elements firstly it examines the historical aspects of the Court s constitutive Statute and the manner in which it defines its judicial character Secondly it considers the drafting process the function of a dissenting opinion and the role of the individual judge in an attempt to discern insights on the function of the Court Finally the book examines the Court s practice in regard to three conceptual issues which assist in understanding the Court s function its theory of precedent its definition of the international community and its theory on the completeness of the international legal order The Judicial Function Joe McIntyre, 2019-09-16 Judicial systems are under increasing pressure from rising litigation costs and decreased accessibility from escalating accountability and performance evaluation expectations from shifting burdens of case management and alternative dispute resolution roles and from emerging technologies For courts to survive and flourish in a rapidly changing society it is vital to have a clear understanding of their contemporary role and a willingness to defend it This book presents a clear vision of what it is that courts do how they do it and how we can make sure that they perform that role well It argues that courts remain a critical relevant and supremely well adjusted institution in the 21st century The approach of this book is to weave together a range of discourses on surrounding judicial issues into a systemic and coherent whole It begins by articulating the dual roles at the core of the judicial function third party merit based dispute resolution and social normative governance By expanding upon these discrete yet inter related aspects it develops a language and conceptual framework to understand the judicial role more fully The subsequent chapters demonstrate the explanatory power of this function examining the judicial decision making

method reframing principles of judicial independence and impartiality and re conceiving systems of accountability and responsibility The book argues that this function driven conception provides a useful re imagining of some familiar issues as part of a coherent framework of foundational yet interwoven principles This approach not only adds clarity to the analysis of those concepts and the concrete mechanisms by which they are manifest but helps make the case of why courts remain such vital social institutions Ultimately the book is an entreaty not to take courts for granted nor to readily abandon the benefits they bring to society Instead by understanding the importance and legitimacy of the judicial role and its multifaceted social benefits this books challenge us to refresh our courts in a manner that best advances this underlying function

Judicial Power in a Globalized World Paulo Pinto de Albuquerque,Krzysztof Wojtyczek,2019-08-21 This book explores fundamental topics concerning the functioning of the judiciary The authors class scholars international judges and jurists from a diverse range of countries address general theoretical issues in connection with judicial power the role and functioning of international courts international standards concerning the organization of national judiciaries and the role of domestic courts in international relations as well as alternative means of settling disputes The book contributes a novel and valuable global perspective on burning issues especially on judicial power and independence in a time in which illiberal and authoritarian regimes are constantly seeking to diminish the role of the judiciary

Judicial Review and Judicial Power in the Supreme Court Kermit L. Hall,2000 First Published in 2001 Routledge is an imprint of Taylor Francis an informa company

American Judicial Power Michael Buenger,Paul J. De Muniz,2015-11-27 American Judicial Power The State Court Perspective is a welcome addition to the breadth of studies on the American legal system and provides an accessible and highly illuminating overview of the state courts and their functions The study of America s courts is overwhelmingly skewed toward the federal government and therefore often overlooks state courts and their importance Michael Buenger and Paul De Muniz fill this gap in the study of American constitutionalism as they examine the wide and distinctive powers these courts exercise and their role in administering the bulk of the nation s justice system This groundbreaking work covers many critical topics pertaining to the state courts including a comparison of the role of state and federal courts the history of America s state courts the judicial selection processes utilized in the states the unique roles assigned to state courts and the varying structure of those courts the relationship between state judicial power and state legislative power and the opportunities and challenges that are and will be facing the state courts With an insightful foreword from Sanford Levinson this revolutionary book will be of interest to students educators and researchers in the fields of law political science and government Constitutional law experts will also benefit from an analysis of the state courts and their powers

Rethinking Judicial Power in Papua New Guinea Bal Kama,2024-08-19 This book examines the role and nature of the judiciary in Papua New Guinea PNG the first comprehensive study since the country s independence in 1975 It challenges the traditional view of the judiciary as solely a legal entity arguing for its broader social and political functions Critiquing assumptions

inherited from British and Australian colonial thinking it discusses how decolonisation has redefined judicial power enabling courts to have a more transformative role Introducing transformative constitutionalism into Australian Pacific legal thinking the book argues that PNG has a transformative constitution defined by its intent for reform extensive Charter of Rights and a liberal judiciary features not found in other Pacific constitutions Given the region s challenges such as corruption political instability and climate change the book advocates for a more proactive role for the judiciary It proposes a re evaluation of the classical tripartite doctrine of separation of powers advocating for a quadripartite model in PNG where the judiciary has a broader reformative function and the independent constitutional institutions constitute a fourth arm of government This work makes important contributions to understandings of judicial power and constitutional law as well as other fields including comparative constitutional studies legal history and decolonial scholarship

Judicial Power and Reconstruction Politics Stanley I. Kutler, 2022-03-25 A study of the Supreme Court in the wake of the Dred Scott decision This book investigates the political and public standing of the Supreme Court following the Dred Scott decision Arguing against interpretations by previous historians Kutler asserts instead that the Chase Court was neither enfeebled by the decision itself nor by congressional Republicans during reconstruction Instead Kutler suggests that during reconstruction the Court was characterized by forcefulness and judicious restraint rather than timidity and cowardice holding a creative and determining role rather than abdicating its rightful powers This volume assembles a series of essays by Kutler arguing for this characterization Provocative and persuasive at turns this collection of essays provides a bold and innovative reinterpretation of the Supreme Court after the Civil War

Limiting Scope of Injunctions in Labor Disputes United States. Congress. Senate. Committee on the Judiciary, 1928

Raw Judicial Power? Robert J. McKeever, 1995 Published here with a new chapter covering judgements from 1993 to 1995 Raw judicial power is established as the definitive analysis of the powerful forces shaping the United States Supreme Court today Robert J McKeever analyses the approach of the Court to the most pressing contemporary social issues such as capital punishment abortion race and affirmative action gender equality and religion sex and politics He shows how social policy initiatives in the US have often come from the judicial rather than the legislative branch of government leading to charges that the Supreme Court has been exercising raw judicial power He examines the policy decisions the Court has made and argues that the Court has increasingly jettisoned traditional notions of constitutional interpretation in order to tackle the conflicts in contemporary American society Students of American politics constitutional law and social policy will all find this book invaluable

Administrative Tribunals in the Common Law World Stephen Thomson, Matthew Groves, Greg Weeks, 2024-10-03 Administrative tribunals are a vital part of the public law frameworks of many countries This is the 1st edited book collection to examine tribunals across the common law world It brings together key international scholars to discuss current and future challenges The book includes contributions from leading scholars from all major common law jurisdictions the UK the USA Canada Australia New Zealand Ireland Israel Hong

Kong Singapore India and South Africa This global analysis is both deep and expansive in its coverage of the operation of administrative tribunals across common law legal systems The book has two key themes one is the enduring question of the location and operation of tribunals within public law systems the second is the continued mission of tribunals to provide administrative justice The collection is an important addition to global public law scholarship addressing common problems faced by the tribunals of common law countries and providing solutions for how tribunals can evolve to match the changing nature of government

Congressional Record United States. Congress,1982 The Congressional Record is the official record of the proceedings and debates of the United States Congress It is published daily when Congress is in session The Congressional Record began publication in 1873 Debates for sessions prior to 1873 are recorded in The Debates and Proceedings in the Congress of the United States 1789 1824 the Register of Debates in Congress 1824 1837 and the Congressional Globe 1833 1873

A Distinct Judicial Power Scott Douglas Gerber,2011-01-10 A Distinct Judicial Power The Origins of an Independent Judiciary 1606 1787 by Scott Douglas Gerber provides the first comprehensive critical analysis of the origins of judicial independence in the United States Part I examines the political theory of an independent judiciary Gerber begins chapter 1 by tracing the intellectual origins of a distinct judicial power from Aristotle s theory of a mixed constitution to John Adams s modifications of Montesquieu Chapter 2 describes the debates during the framing and ratification of the federal Constitution regarding the independence of the federal judiciary Part II the bulk of the book chronicles how each of the original thirteen states and their colonial antecedents treated their respective judiciaries This portion presented in thirteen separate chapters brings together a wealth of information charters instructions statutes etc about the judicial power between 1606 and 1787 and sometimes beyond Part III the concluding segment explores the influence the colonial and early state experiences had on the federal model that followed and on the nature of the regime itself It explains how the political theory of an independent judiciary examined in Part I and the various experiences of the original thirteen states and their colonial antecedents chronicled in Part II culminated in Article III of the U S Constitution It also explains how the principle of judicial independence embodied by Article III made the doctrine of judicial review possible and committed that doctrine to the protection of individual rights

McKinney's Consolidated Laws of New York Annotated New York (State),1916

United States Circuit Courts of Appeals Reports ,1904

Ohio Nisi Prius and General Term Reports Ohio. Courts of Common Pleas,1901

The Federal Reporter ,1885 Includes cases argued and determined in the District Courts of the United States and Mar May 1880 Oct Nov 1912 the Circuit Courts of the United States Sept Dec 1891 Sept Nov 1924 the Circuit Courts of Appeals of the United States Aug Oct 1911 Jan Feb 1914 the Commerce Court of the United States Sept Oct 1919 Sept Nov 1924 the Court of Appeals of the District of Columbia

The Judicial Power and the Power of Congress in Its Relation to the United States Courts Alfred Pembroke Thom,1912

The Global Expansion of Judicial Power C Neal Tate,Torbjorn Vallinder,1997-06-01 Essays examining the trend of expanding

judicial powers in government around the world In Russia as the confrontation over the constitutional distribution of authority raged Boris Yeltsin's economic program regularly wended its way in and out of the Constitutional Court until Yeltsin finally suspended that court in the aftermath of his clash with the hardline parliament In Europe French and German legislators and executives now routinely alter desired policies in response to or in anticipation of the pronouncements of constitutional courts In Latin America and Africa courts are or will be important participants in ongoing efforts to establish constitutional rules and policies protect new or fragile democracies from the threats of military intervention ethnic conflict and revolution This global expansion of judicial power or judicialization of politics is accompanied by an increasing domination of negotiating or decision making arenas by quasi judicial procedures For better or for worse the judicialization of politics has become one of the most significant trends of the end of the millennium In this book political scientists legal scholars and judges around the world trace the intellectual origins of this trend describe its occurrence or lack of occurrence in specific nations analyze the circumstances and conditions that promote or retard judicialization and evaluate the phenomenon from a variety of intellectual and ideological perspectives

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Table of Contents Supreme Court And The Judicial Function

1. Understanding the eBook Supreme Court And The Judicial Function
 - The Rise of Digital Reading Supreme Court And The Judicial Function
 - Advantages of eBooks Over Traditional Books
2. Identifying Supreme Court And The Judicial Function
 - Exploring Different Genres
 - Considering Fiction vs. Non-Fiction
 - Determining Your Reading Goals
3. Choosing the Right eBook Platform
 - Popular eBook Platforms
 - Features to Look for in an Supreme Court And The Judicial Function
 - User-Friendly Interface
4. Exploring eBook Recommendations from Supreme Court And The Judicial Function
 - Personalized Recommendations
 - Supreme Court And The Judicial Function User Reviews and Ratings
 - Supreme Court And The Judicial Function and Bestseller Lists
5. Accessing Supreme Court And The Judicial Function Free and Paid eBooks
 - Supreme Court And The Judicial Function Public Domain eBooks
 - Supreme Court And The Judicial Function eBook Subscription Services
 - Supreme Court And The Judicial Function Budget-Friendly Options
6. Navigating Supreme Court And The Judicial Function eBook Formats
 - ePub, PDF, MOBI, and More
 - Supreme Court And The Judicial Function Compatibility with Devices
 - Supreme Court And The Judicial Function Enhanced eBook Features
7. Enhancing Your Reading Experience
 - Adjustable Fonts and Text Sizes of Supreme Court And The Judicial Function
 - Highlighting and Note-Taking Supreme Court And The Judicial Function
 - Interactive Elements Supreme Court And The Judicial Function
8. Staying Engaged with Supreme Court And The Judicial Function

- Joining Online Reading Communities
- Participating in Virtual Book Clubs
- Following Authors and Publishers Supreme Court And The Judicial Function
- 9. Balancing eBooks and Physical Books Supreme Court And The Judicial Function
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection Supreme Court And The Judicial Function
- 10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
- 11. Cultivating a Reading Routine Supreme Court And The Judicial Function
 - Setting Reading Goals Supreme Court And The Judicial Function
 - Carving Out Dedicated Reading Time
- 12. Sourcing Reliable Information of Supreme Court And The Judicial Function
 - Fact-Checking eBook Content of Supreme Court And The Judicial Function
 - Distinguishing Credible Sources
- 13. Promoting Lifelong Learning
 - Utilizing eBooks for Skill Development
 - Exploring Educational eBooks
- 14. Embracing eBook Trends
 - Integration of Multimedia Elements
 - Interactive and Gamified eBooks

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