

Book Review for 04/20/03 by Malcolm Abel

Title: "Courting Disaster: The Supreme Court and the Unmaking of American Law"

Author: Martin Garbus

Publisher: Times Books

Length: 320 pages

Price: \$26.00

Reading time: 6-8 hours

Reading rating: 5 (1 = very difficult; 10 = very easy)

Overall rating: 4 (1 = average; 4 = outstanding)

"Is the U.S. Supreme Court a sacred body, the devoted guardian of legal truth, and the protector of the American Constitution? Or is it a political battleground, where ideologies clash and social agendas influence the dispensing of fair and objective justice?"

Martin Garbus is one of the most celebrated trial attorneys in the country. Having watched the Supreme Court closely for decades, he argues that it has been a political hotbed for years. The federal judiciary is out of balance and a threat to every American who loves liberty.

In a step-by-step historical analysis, Garbus shows how Ronald Reagan created a judicial counterrevolution to assert states rights and disaggregate individual rights. Reagan's political agenda included attacking citizens' rights under the Fourteenth Amendment and a fifty-year plan to limit access to the federal courts.

The political war of the early 1980s shifted to the judicial branch disguised as a constitutional war. However, the successes, which included the nomination of Antonin Scalia to the US Supreme Court, continued notwithstanding the much politicized defeat of Robert Bork's candidacy.

Besides the thorough analysis of US Supreme Court, Garbus gives a much detailed explanation of the federal judiciary. The nominations of judges to the federal district courts has become more important with courts of appeal appointees and, subsequently, US Supreme Court justice nominations can be grown from the seeds planted in those district courts.

Garbus evaluates each justice on the US Supreme Court, showing how important just one vote can be. The number of 5-4 decisions has increased dramatically. The partisanship and subjectivity of the decisions of the highest court in the land has become the subject of many a discussion and commentary.

How long the court will remain out of balance is unknown, because it lies in the hands of the US Senate and the judicial nomination process. But, Garbus warns, as the individual rights of citizens continue to decline, freedom may become a distant memory. The

unmaking of American law by the US Supreme Court means that we are courting disaster.

E. M. Abel II is professor of business administration and law in the College of Business at Western Carolina University. His scholarly interests include public law, business ethics, and jurisprudence.