

Quibbles and objections aside, Matthew Hall and Martin Sweet have given us engaging and well-written books that offer new frameworks for inquiry, create new knowledge, and challenge us to think anew about the complexities law, courts, and the politics of implementation and impact.

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*American Politicians Confront the Court: Opposition Politics and Changing Responses to Judicial Power*. By Stephen M. Engel. New York: Cambridge Univ. Press, 2011. 408 pp. \$32.99 paper.

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In his engrossing study of the interactions of elected officials and the Supreme Court, Stephen Engel finds scholarly literature inadequate to explain a history in which anti-judicial hostilities recur while judicial authority appears to have become more secure over time. Scholars who simply trace anti-Court sentiment to the justices' unelected status cannot account for the leavening over time of politicians' anti-judicial responses. By contrast, studies that focus on the development of a norm of judicial supremacy cannot explain the continued efforts of politicians to draft bills that undercut judicial authority. Engel has a greater appreciation for scholars who maintain that judicial power serves to entrench partisan policy aims. Yet these studies fail to consider how politicians' preferences

for judicial power have changed over the past 200 plus years and mistakenly treat elected branch hostility toward the judiciary as an aberration.

Engel's central claim is that "anti-judicial animus reflects politicians' changing ideas about the threat posed by formed, stable, and permanent opposition" (8). He grounds his perspective on the relationship between politicians and the Court in the shift in American political culture from the idiom of civic republicanism, which emphasized a uniform notion of the common good and equated stable opposition with civic instability, to the idiom of liberal pluralism, which regards partisan competition as a sign of a healthy body politic. This developmental theory posits that political efforts to control judicial power will not so much decline as change over time.

From the Founding era through the midnineteenth century, when Americans embraced the idiom of civic republicanism, politicians accepted the notion of a fixed Constitution, the meaning of which was discoverable through textual analysis. Politicians thus viewed political parties and stable opposition as threats to a regime unified around a proper understanding of that foundational document. "Carrying this idea into the realm of judicial behavior, if judges offered a vision that challenged the commitments underlying the presidential administration and/or the ruling party in Congress, they would be seen to represent not simply an alternative vision of the good but a fundamental threat to civic stability" (58). Under these circumstances, anti-judicial action took the form of blunt instruments that sought to undermine the legitimacy of the Court.

The Civil War marked a turning point in constitutional development. After that conflict, Americans conceded that efforts at persuasion should characterize disagreements over the meaning of the Constitution, and they came to accept the legitimacy of competing, equally plausible constitutional interpretations. "In this new ideational context, [politicians] would shift their strategies toward the judiciary, attempting tactics that would not undermine judicial authority but harness it for future policy gains" (9).

Engel develops his argument in six detailed case studies of interbranch relations. He begins with the Federalist/Jeffersonian conflict and ends with the reaction of contemporary conservatives against the progressive notion of a living Constitution. In the course of revealing how politicians eventually sought to harness judicial power, Engel emphasizes that the Court has been anything but passive in its relations with elected officials. "Engaged from the start in their own struggle for legitimacy, judges have been keenly sensitive to the changing political environment in which they have

acted and positioned themselves differently over time” (374). Consistent with the shift from civic republicanism to liberal pluralism, the Court went from portraying itself as a neutral arbiter among competing factions, to a body that would side with groups excluded from the democratic process.

Although Engel avoids an implausible argument that reduces the Court to a dependent variable, one can question his treatment of the significance of the justices’ efforts to defend their place in American politics. Engel acknowledges that public respect for the Court is grounded in a presumption of judicial neutrality that developed early in the nation’s history and which the Court has worked to reinforce. But he appears to believe that the result of the Court’s efforts has been largely to establish the constraints within which the politics of anti-judicial hostilities take place. Engel must explain fully why politicians alone regard the Court more as a group of individuals to be manipulated than a unique institution that deserves respect. In short, while defenders of a strong notion of judicial supremacy may overstate their case, Engel may underestimate the degree to which the Court has functioned as an independent variable.

Having said this, Stephen Engel has written a book that is essential reading for students and scholars of law, society, and politics. Any person who would explain the relationship between politicians and the Court must contend with the force of his provocative and well-researched argument.

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*The Paradox of Relevance: Ethnography and Citizenship in the United States.* By Carol J. Greenhouse. Philadelphia: Univ. of Pennsylvania Press, 2011. 328 pp. \$59.95 cloth.

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In *The Paradox of Relevance*, Carol Greenhouse offers an important analysis of the discursive politics of the 1990s. That decade, which marks the end of the Cold War, stands as a critical transition in federal policy from a New Deal to a neoliberal approach to the inequities in U.S. society that many Americans considered to have been resolved through judicial and legislative initiatives of earlier