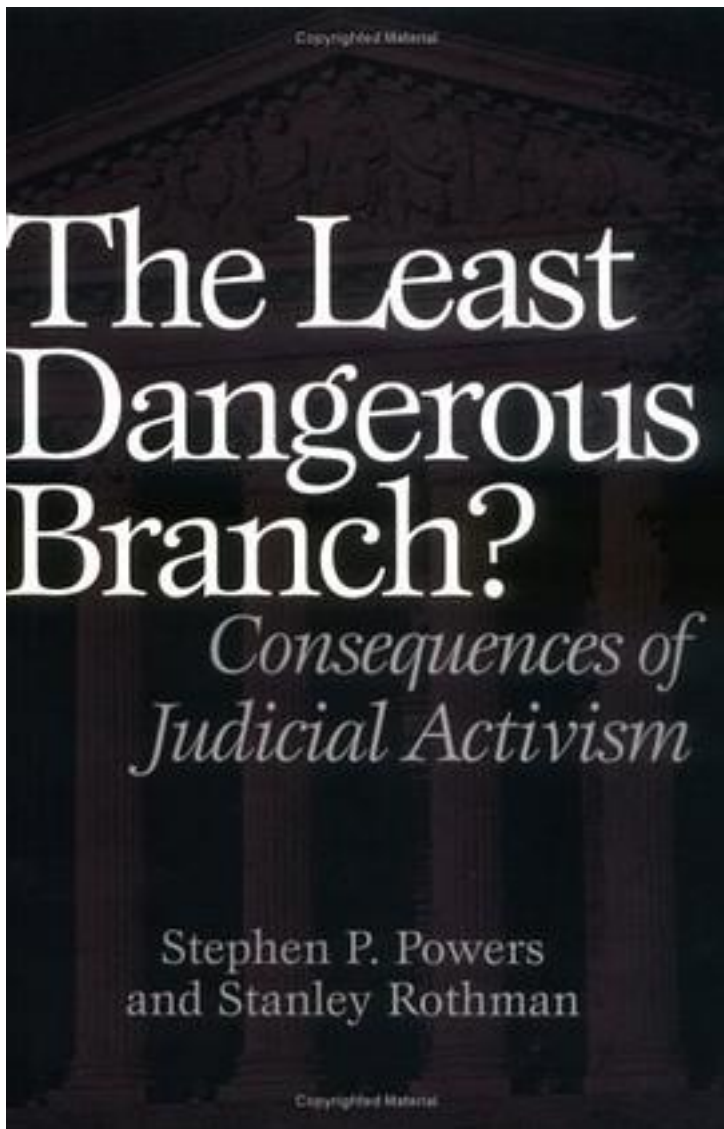


The Least Dangerous Branch?



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Assesses the impact of judicial intervention on busing, affirmative action, prisons, mental health institutes, law enforcement and electoral redistricting. Powers and Rothman explore the impact of the federal courts, perhaps misleadingly characterized by Alexander Hamilton and legal scholar Alexander Bickel as "the least dangerous branch." They provide a brief account of the development of constitutional law and an overview of the judiciary's impact in six controversial areas of public policy. They explore busing, affirmative action, prison reform, mental health reform, procedural reforms in law enforcement, and electoral redistricting. In each of these areas, they review important cases bearing on the particular policy and then provide a review of the social science evidence in order to assess the degree to which the courts have impacted policies and the consequences of that intervention. Courts do not really make policy in the way that legislatures or administrative agencies do. As Powers and Rothman make clear it is more accurate to say that they direct and redirect policy as it is implemented. Courts do this in the process of interpreting the constitution, statutes, and particular administrative practices or conditions. Thus, the judicial contribution to policy-making involves infusing constitutional rights into the realm of public policy. As government has grown, the courts have become more powerful because they have done more and more of this. Powers and Rothman conclude that judicial intervention in public policy has often brought about undesirable consequences, sometimes even for the intended beneficiaries of government intervention. A provocative work of particular use to scholars, students, policy makers, and other researchers involved with public policy, the courts, constitutional law, and the American governmental process.

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