



Misreading Law, Misreading Democracy

Victoria Nourse

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American law schools extol democracy but teach little about its most basic institution, the Congress. Interpreting statutes is lawyers' most basic task, but law professors rarely focus on how statutes are made. This misguided pedagogy, says Victoria Nourse, undercuts the core of legal practice. It may even threaten the continued functioning of American democracy, as contempt for the legislature becomes entrenched in legal education and judicial opinions. *Misreading Law, Misreading Democracy* turns a spotlight on lawyers' and judges' pervasive ignorance about how Congress makes law.

Victoria Nourse not only offers a critique but proposes reforming the way lawyers learn how to interpret statutes by teaching legislative process. Statutes are legislative decisions, just as judicial opinions are decisions. Her approach, legislative decision theory, reverse-engineers the legislative process to simplify the task of finding Congress's meanings when statutes are ambiguous. This theory revolutionizes how we understand legislative history?not as an attempt to produce some vague notion of legislative intent but as a surgical strike for the best evidence of democratic context.

Countering the academic view that the legislative process is irrational and unseemly, Nourse makes a forceful argument that lawyers must be educated about the basic procedures that define how Congress operates today. Lawmaking is a sequential process with political winners and losers. If lawyers and judges do not understand this, they may well embrace the meanings of those who opposed legislation rather than those who supported it, making legislative losers into judicial winners, and standing democracy on its head.

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