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In Pursuit of Justice: Reflections of a State Supreme Court Justice

Joseph R. Grodin

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As Justice William Brennan observes in his foreword, state courts are in some critical ways more important than federal courts in deciding controversies which affect the lives of ordinary citizens. Yet, outside of technical legal materials, little attention is paid to their role in shaping the law. Joseph R. Grodin seeks to fill this vacuum. A law professor and former justice of the California Supreme Court, Grodin was removed from the bench in 1986 along with Chief Justice Rose Bird and Justice Cruz Reynoso after a highly publicized campaign that focused on their decisions in death penalty cases. Drawing on his own experience, and in a lively style spiced with anecdotes and aimed at a general audience, Grodin writes about state appellate courts with insights that only a former justice could provide.

Grodin begins with a reflection on the perspective of the bench, addressing such questions as how judges view the arguments of lawyers and how appellate courts cope with an ever-increasing caseload. He describes his own elevation up the judicial ladder and points out significant aspects of the landscape along the way. In Part Two he discusses the judicial functions that are more or less distinctive to state courts, using case descriptions to illustrate the history and development of the common law, the significance of state constitutions for the protection of individual liberties, the special problems posed by enactment of laws through the initiative process, and the dilemmas surrounding the administration of the death penalty.

In Part Three he confronts a perennial and vastly important question—do judges make law? Grodin argues that in a sense they do, but only within a framework of constraints that make the process quite different from legislative lawmaking. Moreover, the nature of judicial lawmaking varies from context to context, and it has different dimensions in the state systems than in the federal. Finally, Grodin discusses the election process which is used in most states to decide upon selection or retention of judges. He argues that elections pose a threat to judicial independence, and he considers several alternatives to the current system. This engaging book offers a fascinating look at the courts and will appeal to anyone interested in how judges think about the law.

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