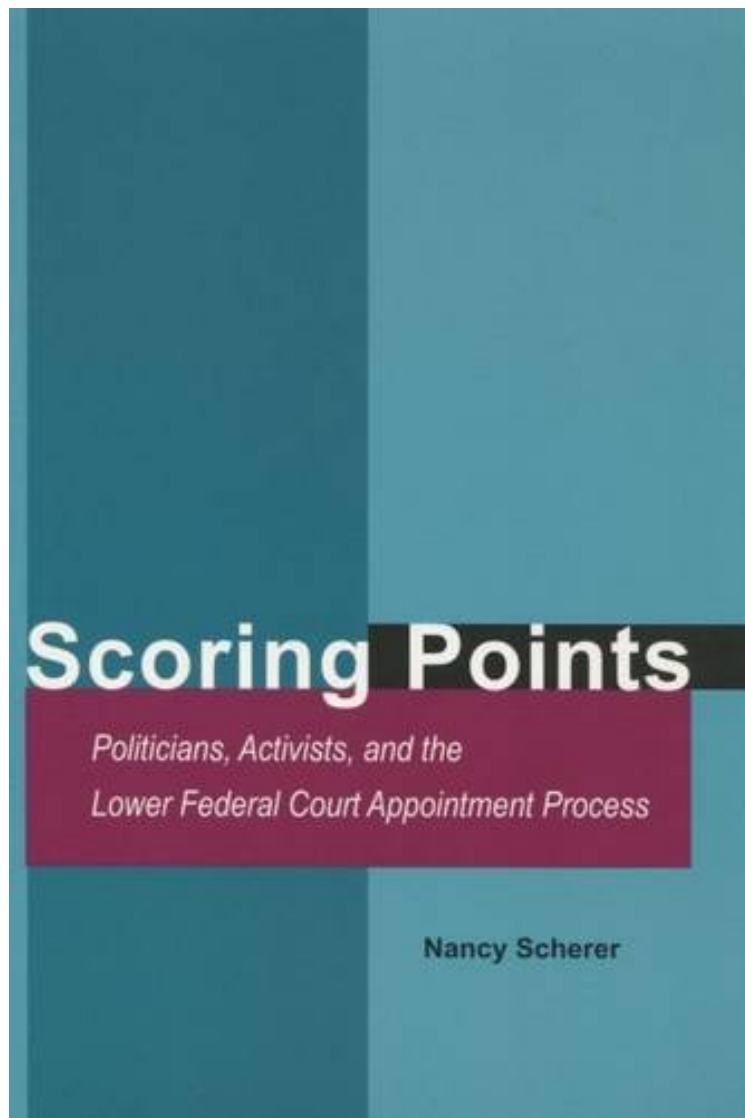


(Download free pdf) Scoring Points: Politicians, Activists, and the Lower Federal Court Appointment Process

# Scoring Points: Politicians, Activists, and the Lower Federal Court Appointment Process

*Nancy Scherer*

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**Nancy Scherer : Scoring Points: Politicians, Activists, and the Lower Federal Court Appointment Process** before purchasing it in order to gage whether or not it would be worth my time, and all praised Scoring Points: Politicians, Activists, and the Lower Federal Court Appointment Process:

0 of 0 people found the following review helpful. A Valuable Study of Lower Court ConfirmationsBy Ronald H.

Clark This book is an outstanding study by a political scientist of one explanation as to why federal judicial nominations to the Courts of Appeal and district courts have become recently so confrontational and protracted. The author is an Assistant Professor at Ohio State University, as well as having had a career as a litigator. The author's key argument as to why things have gotten a bit out of hand is what she terms the "theory of elite mobilization." That is, party activists and interest group leaders use these battles as a way to energize the grass root members of their respective organizations; it is those folks who turn out the vote, contribute the money, and serve as the backbone of the organizations. Hence, we now end up with ideological litmus tests, obstructionist tactics in the Senate, and the use of judicial nominations as a campaign issue. The author first places all this in historical perspective by looking at the way nominations used to be handled. The courts gained visibility as a result of the Warren Court, the Brown decision, affirmative action implementation, and the greater role played by women in American society as a result of key decisions. So, judicial slots became too valuable to use as rewards for patronage politics--they became keys to "scoring points" with party and interest group elites. Just think of how often we hear about abortion in connection with judicial appointments. The author finds that patronage judges did not really differ that much in ideological orientation, while the present system generates such conflicts. According to the author, this new view of judicial appointments come to reality during the Reagan administration and has continued on the party of both parties ever since. One of the most valuable chapters focuses on how groups decide to challenge or not challenge particular nominations. The author undertook extensive interviewing with group leaders to explore this facet. Next she offers a fascinating discussion of Senate obstruction tactics and how well they work, including the role of "blue slips." The book then addresses how judicial nominations have been used in both federal and state election campaigns. One chapter is devoted convincingly to knocking down a potential alternative theory that this increasingly bizarre procedure is the result simply of divided government. The author's research is impressive. For the statistically-challenged, rest assured that most of that methodological material is relegated to several appendices. The text itself flows along nicely since the author explains her findings much more than how she statistically determined them. A great bibliography and extensive notes are included, but the length is only around 250 pages. One of the more perceptive and useful books on this topic and well worth a read.

This book explores how the lower federal court appointment process became vastly politicized in the modern era. Scherer develops a theory of elite mobilization, positing that lower court appointments have always been used by politicians for electoral purposes, but because of two historic changes to American institutions in the 1950s and 1960s the breakdown of the old party system, and a federal judiciary reception to expanding individuals constitutional rights politicians shifted from an appointment system dominated by patronage to a system dominated by new policy-oriented appointment strategies. The use of these new strategies not only resulted in partisan warfare during the nomination and confirmation stages of the appointment process, but also led to party-polarized voting in the lower federal courts. Employing exclusive data of judicial decision-making from the New Deal era through the present, Scherer demonstrates that there was little party-polarized voting in the lower federal courts until the late 1960s, and that once politicians began to use elite mobilization strategies, significant party-polarized voting in the lower federal courts resulted. Accordingly, elite mobilization strategies have affected not only politics in Washington, but also the way justice is distributed across the country.

"What a splendid, and spectacularly timely, achievement! Scherer has produced the best discussion, by far, of political contests over the lower federal courts. Her discussion is full of surprises about American history, American politics, and American judges. A truly indispensable guide." (Cass Sunstein University of Chicago Law School) "...Scoring Points is an important contribution to the literature on the selection of lower federal court judges, and more generally on the American political system." (Perspectives on Politics) "Scoring Points is a provocative work that breaks new theoretical ground in linking the transformation of the American party system to the politicization of the federal judiciary. Scherer is a forceful advocate for her thesis. This is a book that will be discussed and cited for years to come." (Sheldon Goldman, University of Massachusetts Amherst) From the Inside Flap This book explores how the lower federal court appointment process became vastly politicized in the modern era. Scherer develops a theory of elite mobilization, positing that lower court appointments have always been used by politicians for electoral purposes, but because of two historic changes to American institutions in the 1950s and 1960s the breakdown of the old party system, and a federal judiciary reception to expanding individuals constitutional rights politicians shifted from an appointment system dominated by patronage to a system dominated by new policy-oriented appointment strategies. The use of these new strategies not only resulted in partisan warfare during the nomination and confirmation stages of the appointment process, but also led to party-polarized voting in the lower federal courts. Employing exclusive data of judicial decision-making from the New Deal era through the present, Scherer demonstrates that there was little party-polarized voting in the lower federal courts until the late 1960s, and that once politicians began to use elite mobilization strategies, significant party-polarized voting in the lower federal courts resulted. Accordingly, elite mobilization strategies have affected not only politics in Washington, but also the way justice is distributed across the

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