

1. Record Nr.	UNINA9911009148903321
Autore	Virelli Louis J.
Titolo	Disqualifying the High Court : Supreme Court Recusal and the Constitution / / Louis Virelli III
Pubbl/distr/stampa	Lawrence, Kansas : , : University Press of Kansas, , [2016] ©2016
ISBN	9780700622726 0700622721
Edizione	[1st ed.]
Descrizione fisica	1 online resource (297 pages)
Classificazione	LAW018000POL022000LAW111000
Disciplina	347.73/265
Soggetti	LAW / Judicial Power POLITICAL SCIENCE / Constitutions LAW / Constitutional Constitutional law - United States Judges - Disqualification - United States Judges - Recusal - United States Electronic books.
Lingua di pubblicazione	Inglese
Formato	Materiale a stampa
Livello bibliografico	Monografia
Note generali	Includes index.
Nota di bibliografia	Includes bibliographical references and index.
Nota di contenuto	The evolution of American recusal law -- Recusal and the Supreme Court -- The constitutionality of Supreme Court recusal standards -- Constitutional solutions -- Due process and the First Amendment -- Beyond the High Court -- A lesson in structure.
Sommario/riassunto	Judges recuse themselves when the outcome of a case might affect their personal interest or if there is reasonable belief that they would be biased because they have already taken a position on a case. For example, in a recent decision the Supreme Court decided that a member of the West Virginia Supreme Court should have recused himself from a decision involving a company that had made a substantial contribution to his election campaign. Who sets the standards for recusal and what standards are appropriate? Can Congress regulate the recusal rules for a co-equal branch, particularly the Supreme Court? What considerations go into making decisions

about recusal? In this book Lou Virelli argues that Congress cannot set standards that must be followed by the Supreme Court because of separation of powers. The issue is less clear for the lower federal courts. In considering what standards should apply the courts must balance the due process claims of litigants with the right of judges to exercise their free speech rights. This book explores the history and grounds of judicial recusal by focusing mostly on the federal courts. Beyond the important question of recusal itself, the book explores the constitutional problems associated with separation of powers-- Since at least the time of Justinian--under statutes, codes of judicial ethics, and the common law--judges have been expected to recuse themselves from cases in which they might have a stake. The same holds true for the justices of the US Supreme Court. For instance, there were calls for Ruth Bader Ginsburg and Elena Kagan, both of whom had officiated at gay weddings, to recuse themselves from the recent marriage equity case, *Obergefell v. Hodges*. Even a case like this, where no justice bowed out, reveals what a tricky ethical issue recusal can be. but as Louis J. Virelli demonstrates in this provocative work, recusal at the Supreme Court also presents questions of constitutional power. Disqualifying the High Court shows that our current understanding of how and when justices should recuse themselves is at odds with our constitutional design. Viewing recusal through a constitutional lens, Virelli reveals new and compelling information about how justices should decide recusal questions and, in turn, how our government should function more broadly. Along the way he traces the roots and development of federal recusal law in America from as early as the Roman Empire up to the present day. The Supreme Court's unique place at the top of the judicial branch protects the justices from some forms of congressional interference. Virelli argues that constitutional law, in particular the separation of powers, prohibits Congress from regulating the recusal practices of the Supreme Court. Instead those decisions must be left to the justices themselves, grounded in the principles of due process--assuring parties fair treatment by the judicial system--and balanced against the justices' rights to free speech. Along with the clarity it brings to this highly controversial issue, Virelli's work also offers insight into constitutional problems presented by separation of powers. It will inform our evolving understanding of theory and practice in the American judicial system.

--
