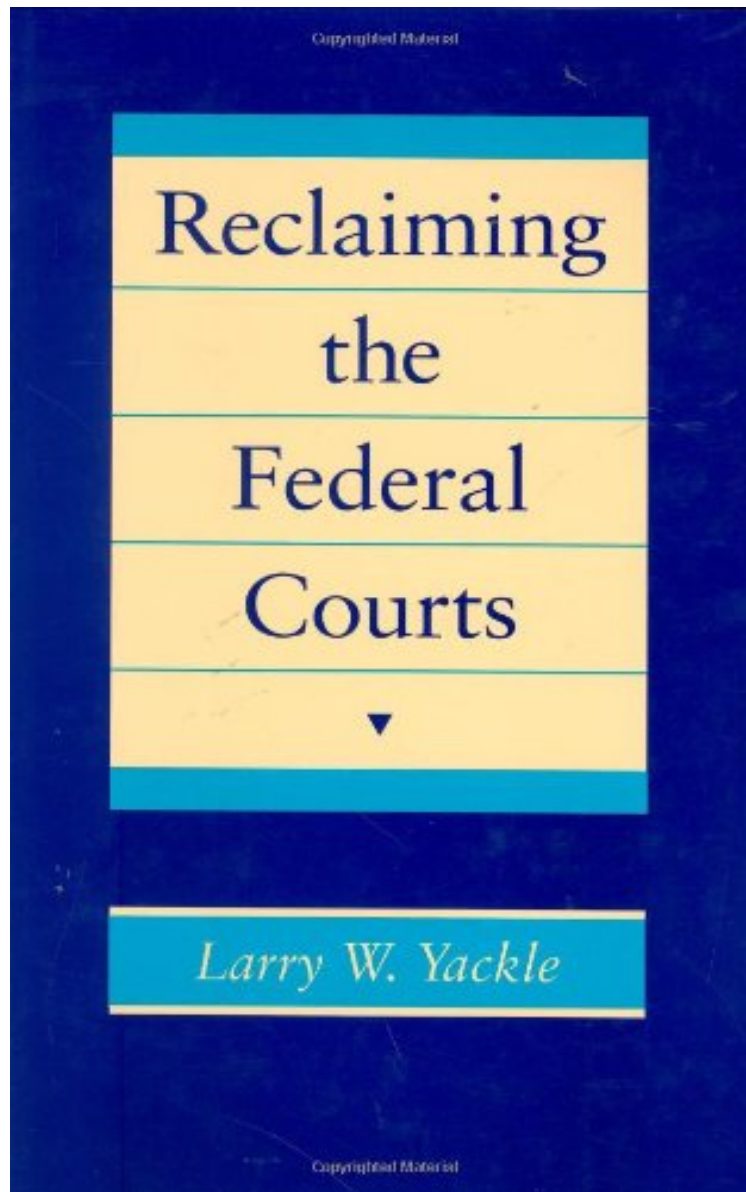


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## Reclaiming the Federal Courts

*Larry Yackle*

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**Larry Yackle : Reclaiming the Federal Courts** before purchasing it in order to gage whether or not it would be worth my time, and all praised Reclaiming the Federal Courts:

2 of 2 people found the following review helpful. A very ideologically liberal account, but very important By Tung Yin  
The author, Larry Yackle, a professor of law at Boston University, is a passionate and articulate defender of liberal values such as expansive federal habeas corpus, easy access to federal courts, the relaxation of rules on "standing"

(which governs who may assert a cause of action), and so on. The essential question here, which spans all of the topics he covers, is the proper role of federal courts, as compared to state courts. Federal courts exist to adjudicate federal rights (with a significant exception for so-called "diversity of citizenship" cases -- those between citizens of different states), and the perception among liberals is that federal courts are more receptive to federal rights. One reason for that has been described as the "parity" debate: are state court judges as competent as federal judges in interpreting the U.S. Constitution? Professor Yackle believes the answer is clearly "no," and therefore, he would like to see the reach of federal courts expanded as much as possible to protect those rights. You may not agree with his ideology, but this is a very important work, for those who favor a more conservative (and therefore restrictive) role for federal courts must grapple with and respond to the arguments presented herein.

Go ahead and try to make a federal case of it. That may seem to be your right, but as Larry Yackle reveals in *Reclaiming the Federal Courts*, the guardians of that right don't see it that way. A systematic study of the role the federal courts play in enforcing the Constitution, this powerful book shows how the current conservative Supreme Court has undermined that role by restricting citizens' access to these courts. Yackle focuses on judicially created doctrines that channel certain cases away from the federal courts (which tend to hold government power in check) and into state courts (which tend to allow government a relatively free hand). In doing so, he clearly shows how seemingly arcane and confusing legal technicalities actually tilt the delicate balance between government power and individual liberty in the United States. As he traces the historical underpinnings of the federal judicial system, Yackle explains how access to the federal courts in federal-question cases is intertwined with the most fundamental elements of American Jurisprudence--Legal Formalism, Legal Realism, Legal Process, and the Civil Rights Movement--as well as with the recent conservative retrenchment. He goes on to examine specific modern doctrines. Here we see how the Rehnquist Court's restrictive rules deny citizens standing to sue in federal court, disclaim the federal courts' jurisdiction even when standing is conceded, channel cases away from the federal courts even when they have jurisdiction, and frustrate the right to petition the federal courts for a writ of habeas corpus--perhaps the most fundamental right of any citizen. Yackle's straightforward style makes his description and analysis of existing law intelligible to students and others who wish to understand how the federal judicial system actually functions--or fails to function. The book concludes with concrete recommendations for congressional action to correct the subtle but significant injustice that Yackle so clearly and cogently exposes.

This book vividly demonstrates that, through a series of decisions concerning the federal courts' jurisdiction, the Supreme Court recently has gravely impaired individuals' constitutional rights by foreclosing meaningful judicial remedies for their violation. Larry Yackle makes a compelling case that these 'door-closing' decisions are as damaging to human rights as decisions that directly curtail such rights. By thoroughly analyzing these critically important decisions, Yackle makes an essential contribution to civil liberties and civil rights. His concrete, constructive suggestions for legislative reform should be given the most serious consideration by Congress and constitutional scholars. (Nadine Strossen President, American Civil Liberties Union, and Professor of Law, New York Law School) Everyone interested in the fate of individual rights in this country should read Larry Yackle's superb book. It tells us how and why the current Supreme Court has foreclosed access to the courts and erected insuperable obstacles to the pursuit of liberty. *Reclaiming the Federal Courts* should be a wake-up call, not only for liberals but for the nation. Yackle has done a masterly job. He may single-handedly have provided the ammunition necessary to keep the Warren-Brennan tradition alive. (Judge Stephen Reinhardt U.S. Court of Appeals for the Ninth Circuit) Former Supreme Court Justice William Brennan, Jr., once wrote, 'We like to believe that wherever the federal courts sit, human rights under the federal Constitution are always a proper subject for consideration.' This provocative book provides powerful testimony that Brennan's ideal rings hollow for many in our society. Examining the various doctrines that are used to deny the poor and disenfranchised their day in court, the book demonstrates that those most in need of judicial protection are routinely deprived of basic constitutional freedoms. It also offers creative solutions for guaranteeing equal access to the federal courts to all individuals. (Nan Aron Executive Director, Alliance for Justice) From the Back Cover Go ahead and try to make a federal case of it. That may seem to be your right, but as Larry Yackle reveals in *Reclaiming the Federal Courts*, the guardians of that right don't see it that way. A systematic study of the role the federal courts play in enforcing the Constitution, this powerful book shows how the current conservative Supreme Court has undermined that role by restricting citizens' access to these courts. Yackle focuses on judicially created doctrines that channel certain cases away from the federal courts (which tend to hold government power in check) and into state courts (which tend to allow government a relatively free hand). In doing so, he clearly shows how seemingly arcane and confusing legal technicalities actually tilt the delicate balance between government power and individual liberty in the United States. As he traces the historical underpinnings of the federal judicial system, Yackle explains how access to the federal courts in federal-question cases is intertwined with the most fundamental elements of American jurisprudence - Legal Formalism, Legal Realism, Legal Process, and the Civil Rights Movement - as well as with the recent conservative retrenchment. He goes on to examine specific modern

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About the Author  
Larry W. Yackle is a Professor of Law at Boston University School of Law