



A Doubtful and Perilous Experiment: Advisory Opinions, State Constitutions, and Judicial Supremacy

Mel A. Topf

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In *A Doubtful and Perilous Experiment: Advisory Opinions, State Constitutions, and Judicial Supremacy*, author Mel A. Topf provides readers with a comprehensive treatment of the history, concept, jurisprudence and controversies relating to state Supreme Court advisory opinions.

A Doubtful and Perilous Experiment is the only comprehensive treatment of the history and controversies, the law and theories about state supreme court advisory opinions. This is a significant area of state constitutional law that has no parallel in federal law (which bars advisory opinions from federal courts). Though just ten states have adopted such advisory opinions (many others have debated but rejected them), they have been implicated in major issues regarding American judicial power. The book explains the-so far unexplained-first appearance of advisory authority in 1780, and address the persistent aura of illegitimacy that has always shadowed this authority. The frequent attacks on the legitimacy of advisory opinions have been triggered by their clash with basic doctrines of our legal system, including separation of powers, due process, judicial review, judicial independence, and judicial supremacy.

A Doubtful and Perilous Experiment shows how law of state supreme court advisory opinions in fact arose in response to the attacks, resulting in an elaborate jurisprudence of advisory opinions centering on a remarkable but not entirely successful attempt to justify when the justices will advise and when they will not. The book tells the story of attempts to defend advisory authority, including several attempts to amend the U.S. Constitution to require the Supreme Court to issues them. It tells the story also of the uneasy relation between advisory opinions and judicial review as well as the expansion of judicial power.

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