

1989

Symposium: Judicial Refusal to Exercise Congressional Grants of Jurisdiction and Separation of Powers

J. Timothy Mc Donald

Follow this and additional works at: <https://scholarlycommons.law.case.edu/caselrev>



Part of the [Law Commons](#)

Recommended Citation

J. Timothy Mc Donald, *Symposium: Judicial Refusal to Exercise Congressional Grants of Jurisdiction and Separation of Powers*, 40 Case W. Res. L. Rev. 997 (1989)

Available at: <https://scholarlycommons.law.case.edu/caselrev/vol40/iss4/7>

This Symposium is brought to you for free and open access by the Student Journals at Case Western Reserve University School of Law Scholarly Commons. It has been accepted for inclusion in Case Western Reserve Law Review by an authorized administrator of Case Western Reserve University School of Law Scholarly Commons.

SYMPOSIUM

JUDICIAL REFUSAL TO EXERCISE CONGRESSIONAL GRANTS OF JURISDICTION AND SEPARATION OF POWERS*

Introduction

Separation of powers issues do not attract the passion of the public as readily as do other constitutional issues. Abortion, equal protection and the first amendment seem to have a virtual monopoly on the public's eye. However, public obscurity has not dampened the ardor of federal courts scholars. Here, rather, the debate over abstention, the eleventh amendment and justiciability is as fervent as is the public's with respect to abortion.

The issues involving the federal courts' failing to exercise congressionally authorized jurisdiction have not traditionally been thought of as raising separation of powers concerns. However, strong separation of powers concerns inform the forceful arguments presented by the Authors in this Symposium. The unrest surrounding this issue is readily apparent from the works of the Authors. This exercise should lead to even more debate and scholarship in this area.

J. TIMOTHY MC DONALD

* This Symposium was presented to the Federal Courts Section of the 1990 American Association of Law Schools Meeting on January 5, 1990 in San Francisco, California. The Symposium and panel discussion were organized by Professors Mark Tushnet of the Georgetown University Law Center and William Marshall of Case Western Reserve University Law School.

