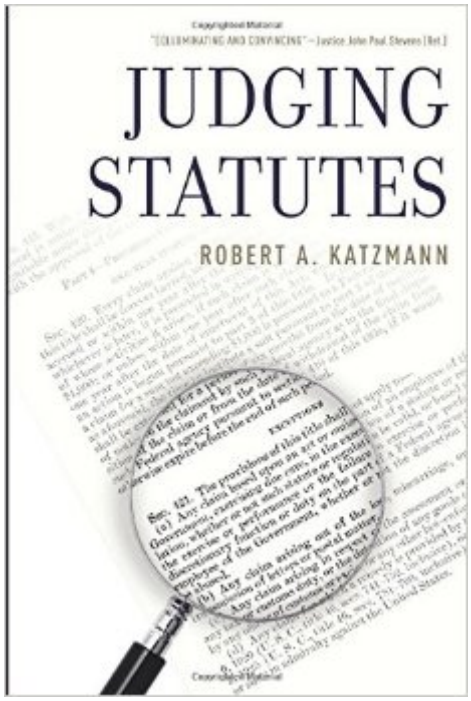
Judging Statutes



Synopsis

In an ideal world, the laws of Congress--known as federal statutes--would always be clearly worded and easily understood by the judges tasked with interpreting them. But many laws feature ambiguous or even contradictory wording. How, then, should judges divine their meaning? Should they stick only to the text? To what degree, if any, should they consult aids beyond the statutes themselves? Are the purposes of lawmakers in writing law relevant?Some judges, such as Supreme Court Justice Antonin Scalia, believe courts should look to the language of the statute and virtually nothing else. Chief Judge Robert A. Katzmann of the U.S. Court of Appeals for the Second Circuit respectfully disagrees. In Judging Statutes, Katzmann, who is a trained political scientist as well as a judge, argues that our constitutional system charges Congress with enacting laws; therefore, how Congress makes its purposes known through both the laws themselves and reliable accompanying materials should be respected. He looks at how the American government works, including how laws come to be and how various agencies construe legislation. He then explains the judicial process of interpreting and applying these laws through the demonstration of two interpretative approaches, purposivism (focusing on the purpose of a law) and textualism (focusing solely on the text of the written law). Katzmann draws from his experience to show how this process plays out in the real world, and concludes with some suggestions to promote understanding between the courts and Congress.When courts interpret the laws of Congress, they should be mindful of how Congress actually functions, how lawmakers signal the meaning of statutes, and what those legislators expect of courts construing their laws. The legislative record behind a law is in truth part of its foundation, and therefore merits consideration.

Book Information

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Customer Reviews

For a number of years now, a somewhat ferocious debate has ranged around the issue of how federal judges should interpret ambiguous statutes. One school of thought, most prominently advocated by Justice Scalia, limits the judge’s options to what is explicitly stated in the statute’s text, dictionaries, and certain canons of construction. An alternative approach argues for the use of "legislative history" such as committee and conference reports to cast light on ambiguous provisions. In this fine book, Judge Robert Katzmann, Chief Judge of the U.S. Second Circuit Court of Appeals, discusses these issues from the perspective of his long consideration of the topic. Before he was placed on the bench, the author spent many years at the Brookings Institution, The Governance Institution, and Georgetown University examining judiciary-legislative relationships, including publications on statutory interpretation. Despite the explosive nature of the topic, this book is coolly analytical and exhaustive in its consideration of related issues. But to be sure, the author is firmly in favor of reliance upon appropriate legislative history where necessary.One of the author’s major themes is the need for the judiciary to have a better understanding of Congress and the lawmaking process. So, a valuable early chapter focuses upon this topic, especially the important role of legislative staffs. Another theme is that probably the best place to look for assistance in interpreting ambiguous statutes is to the administrative agencies that implement them. The legislative staffs intentionally generate legislative history material (particularly in committee and conference reports) to guide the agencies; they seem to get it, why not the courts?

Judge Robert Katzmann’s "Judging Statutes" is the latest entry in the catalogue of books from judges seeking to explain their work to the public. He argues that judges should consider legislative history when interpreting statutes. However, two features make this book different from others in the genre, such as those of Supreme Court Justice Stephen Breyer.First, Katzmann focuses on interpreting statutes, not constitutions. Some of the questions are the same - should one use drafting history to interpret the text or not? However, interpreting statutes necessarily implies more of a dialogue between the legislature and the judiciary. The courts also do not have the final word as Congress can - and not infrequently does - override judiciary decisions.Second, having worked both in Congress and in the judiciary, Katzmann tries to bring a legislative perspective to the discussion. In one sense, this book seems as if it had been written by Katzmann to his fellow judges to tell them

why Congress considers legislative history important. He discusses the process of lawmaking and how legislators rely on the congressional record in their own activities.Katzmann makes a compelling argument against strict textualism. In particular, he questions the value of using dictionary definitions and canons to interpret legislation if Congress itself does not use those methods in drafting and understanding legislation. Katzmann supplements his personal experiences with empirical studies on lawmaking and it's clear that lawmakers - or their staff members - do consider legislative history to be important.Moreover, Katzmann provides three examples of cases in which he participated in the 2nd Circuit.