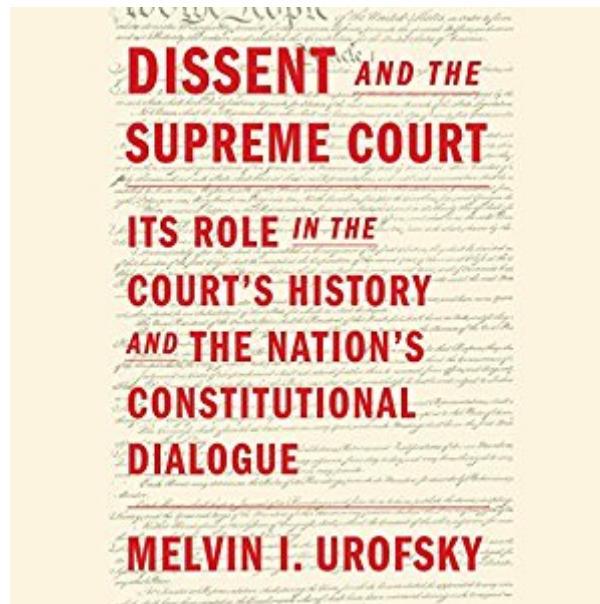


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# Dissent And The Supreme Court: Its Role In The Court's History And The Nation's Constitutional Dialogue



## Synopsis

From the admired judicial authority, author of *Louis D. Brandeis* ("Remarkable" - Anthony Lewis, *The New York Review of Books*; "Monumental" - Alan M. Dershowitz, *The New York Times Book Review*), *Division and Discord*, and *Supreme Decisions* - Melvin Urofsky's major new audiobook looks at the role of dissent in the Supreme Court and the meaning of the Constitution through the greatest and longest lasting public-policy debate in the country's history, among members of the Supreme Court, between the Court and the other branches of government, and between the Court and the people of the United States. Urofsky writes of the necessity of constitutional dialogue as one of the ways in which we as a people reinvent and reinvigorate our democratic society. In *Dissent and the Supreme Court*, he explores the great dissents throughout the Court's 225-year history. He discusses in detail the role the Supreme Court has played in helping to define what the Constitution means, how the Court's majority opinions have not always been right, and how the dissenters, by positing alternative interpretations, have initiated a critical dialogue about what a particular decision should mean. This dialogue is sometimes resolved quickly; other times it may take decades before the Court adjusts its position. Louis Brandeis' dissenting opinion about wiretapping became the position of the Court four decades after it was written. The Court took six decades to adopt the dissenting opinion of the first Justice John Harlan in *Plessy v. Ferguson* - that segregation on the basis of race violated the Constitution - in *Brown v. Board of Education*. Urofsky shows that the practice of dissent grew slowly but steadily and that in the 19th century dissents became more frequent. In the (in)famous case of *Dred Scott v. Sanford*, Chief Justice Roger Taney's opinion upheld slavery, declaring that blacks could never be citizens.

## Book Information

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## Customer Reviews

I think a person's evaluation of this book will depend a great deal on what expectations you have going into it. I am a lawyer and have taught US history on the college level, so I have a fair understanding of The Supremes (as my Con Law prof used to call them) and their place in American history. As such, I didn't expect any great revelations from Mr. Urofsky, and I wasn't surprised or disappointed by his book. That said, I did find the book a very elegantly written general overview of some of the most important cases in Supreme Court history. To me it is obvious dissent has been a major factor when it comes to developing American domestic policy -- just as it is in any long-term political relationship. The Founding Fathers considered dissent such a critical part of American politics that they drafted the Constitution in a way that wouldn't hedge or direct dissent (hence the lack of any reference or provision for political parties in the document). I think the history of the Court, and how it has developed over time and created its place in the federal government is covered very well in this book. Mr. Urofsky is eloquent on most of the subject matter and excessively interesting on anything that touches on Brandeis, which apparently is his real subject of expertise (or one of them ?) Anyhow, this was a nice refresher for me and got me thinking about cases I haven't given much thought to since law school. If you want a very readable account of the Court's history and how dissent has shaped the Court, this is a pleasurable read.

I am neither a scholar nor attorney but found Dissent and the Supreme Court an intriguing - albeit intense - look at the history of the court. Author and law professor Melvin Urofsky takes a unique look at the dissents of landmark cases that shaped society over the past 226 years. Sometimes those dissents prove to be the catalyst for change, as in Plessey v. Ferguson, and in others they provide a window into another chapter in our nation's history. Urofsky lets the words of the justices speak for themselves while providing a background into the era in which these cases came to be heard. He does a good job of introducing the layman reader to the workings of the court and impressively checks whatever his political leanings may be at the door. It is pretty well known that on today's court, Justices Scalia and Ginsburg, despite their political differences, are close friends and confidants and have great respect for each other. I liked that Urofsky lets the reader see how personal relationships like this have shaped the court and sometimes influenced - for the better - the drafting of both majority and minority opinions. This will be an easier read for someone in the legal

field than it was for a layperson like myself. It can be a bit academic at times but Urofsky is thorough and comprehensive in his coverage of the court. This is not a fast read - there is a lot of information to digest - but it is an enlightening history lesson and well worth the investment of time.

Having practiced constitutional law for more than 25-years, I probably approached this book a little differently than the average reader. But, in reviewing it, I wanted to put aside my expectations and consider it as something for the well-informed layperson. While the central thesis of the book is provocative and interesting, and the author does a great job of setting it up and explaining the singular role dissenting opinions play in Supreme Court jurisprudence, he fails to do so in way that captures the imagination, and, in injecting his personal political views into the book, distorts what could have been (and what I expected to be) philosophical more neutral historical detective story about the the social and political climate out of which dissenting views emanated -- and how those opinions, for example, might be understood in that context. Nor does the author effectively play devil's advocate to bring out nuances lost in the popular views of those cases. In the end, it feels mostly like a polemic, and not the page turner it ought to have been.

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