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**The Politics of “The Least Dangerous Branch”:  
The Court, the Constitution and Constitutional Politics  
Since 1945 (in Jean-Christophe Agnew and  
Roy Rosenzweig, eds., A COMPANION TO POST-1945  
AMERICA (Blackwell Press, 2002))**

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The Politics of “The Least Dangerous Branch”:  
The Court, the Constitution and Constitutional Politics Since 1945  
in Jean-Christophe Agnew and Roy Rosenzweig, eds.,  
*A Companion to Post-1945 America* (Blackwell Press, 2002)

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This essay, written for a broad scholarly audience, surveys the history and scholarship on the U.S. Constitution and the courts from 1945 to the end of the twentieth century. The essay focuses on iconic moments that have influenced constitutional theory in the second half of the twentieth century, particularly *Brown v. Board of Education*, *Roe v. Wade*, and the memory of the New Deal era. It briefly surveys important lines of argument about the courts, including the countermajoritarian difficulty, the question of whether courts offer a “hollow hope” of social change, and the scholarly reaction to *Bush v. Gore*. The essay appears in a collection on a broad range of issues in post-1945 U.S. history, featuring the work of important U.S. historians, including Ellen Schrecker, Kevin Gaines, Nelson Lichtenstein and Linda Gordon. As an introduction to the rich history of the constitution and the courts since 1945, the essay may be of greatest interest to scholars in fields other than law, academics from other countries who are interested in America law, and graduate students.