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How Should Elected Judges Interpret Statutes?

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How Should Elected Judges Interpret Statutes?

Federal judges are unelected and, basically, politically unaccountable. Most state judges are elected in some form or another. What (if any) significance does this hold when it comes to how judges should interpret statutes? There is some evidence that modes of selection and retention do in fact affect judicial behavior, but here I am asking the normative question. *Should* a judge's elected character make a difference to the judge's interpretive method?

A) No. What matters is the judicial role. That role determines the proper interpretive method. How one got into the role is irrelevant.

B) Yes. Elected judges can legitimately engage in looser interpretation or more aggressive interpretive maneuvers because they have a better democratic pedigree. (I concede that some of the terms being used here are vague, contested, complex, etc. but I hope they have enough content to allow the reader to agree or not.)

C) Yes, but in the opposite way. Elected judges have to be more restrained precisely because they lack the right kind of independence.

D) None of the above.

As you might guess, this issue is implicated in one of my current research projects. I am tentatively endorsing B. Perhaps you can save me from making a fool of myself by explaining why I'm totally wrong before I post the draft on SSRN.

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