

REASON OVER PRECEDENTS

Origins of American Legal Thought

Craig Evan Klaffer

Reason Over Precedents Origins Of American Legal Thought

Peter Karsten



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A Companion to American Legal History Sally E. Hadden, Alfred L. Brophy, 2013-02-22 A Companion to American Legal History presents a compilation of the most recent writings from leading scholars on American legal history from the colonial era through the late twentieth century Presents up to date research describing the key debates in American legal history Reflects the current state of American legal history research and points readers in the direction of future research Represents an ideal companion for graduate and law students seeking an introduction to the field the key questions and future research ideas

Reason Over Precedents Craig Evan Klafter, 1991

Failures of American Methods of Lawmaking in Historical and Comparative Perspectives James Maxeiner, 2018-03-08 What Americans sought What Americans got deranged laws What Americans can do improve legal methods

Legal Science in the Early Republic, Steven J. Macias, 2016-05-31 This work examines the intellectual motivations behind the concept of legal science the first coherent American jurisprudential movement after Independence Drawing mainly upon public but also private sources this book considers the goals of the bar s professional leaders who were most adamant and deliberate in setting out their visions of legal science It argues that these legal scientists viewed the realm of law as the means through which they could express their hopes and fears associated with the social and cultural promises and perils of the early republic Law perhaps more so than literature or even the natural sciences provided the surest path to both national stability and international acclaim While legal science yielded the methodological tools needed to achieve these lofty goals its naturalistic foundations more importantly were at least partly responsible for the grand impulses in the first place This book first considers the content of legal science and then explores its application by several of the most articulate legal scientists working and writing in the early republic

The Constitution and the Pride of Reason Steven D. Smith, 1998-01-01 Attempting to realize Plato s vision of a republic governed by reason American constitutionalists according to Steven D Smith s bold new critical study have instead reenacted the Tower of Babel myth producing a constitutional discourse marked by rampant confusion elaborate sophistry and thinly veiled authoritarian bullying How is it that the pursuit of such lofty aims by yesterday s framers and today s scholars has left us mired in a constitutional morass This timely book ponders that question with the intellectual vigor it deserves Observing that standard accounts of constitutional law both the conservative and liberal varieties have lost their power to illuminate *The Constitution and the Pride of Reason* explores how constitutional law hangs together and how it falls apart by investigating the perennial claim that the Constitution and its interpretation somehow embody a commitment to

governance by reason What does this claim mean and is it valid In confronting these queries Smith offers revealing and iconoclastic assessments of constitutionalists ranging from Madison and Jefferson to Dworkin and Bork Also detailed in these pages is a provocative overview of the whole constitutional project from its noble aspirations to its tragic failures A truly visionary work that investigates the scholarship the design and the history of the quintessential American legal document this volume also sensibly reflects on the meaning and possibility of the ethical commitment to the life of reason It will appeal not only to students of constitutional law but also to those interested in political science philosophy and American history

Heart versus Head Peter Karsten, 2000-11-09 Challenging traditional accounts of the development of American private law Peter Karsten offers an important new perspective on the making of the rules of common law and equity in nineteenth century courts The central story of that era he finds was a struggle between a jurisprudence of the head which adhered strongly to English precedent and a jurisprudence of the heart a humane concern for the rights of parties rendered weak by inequitable rules and a willingness to create exceptions or altogether new rules on their behalf Karsten first documents the tendency of jurists particularly those in the Northeast to resist arguments to alter rules of property contract and tort law He then contrasts this tendency with a number of judicial innovations among them the sanctioning of deep pocket jury awards and the creation of the attractive nuisance rule designed to protect society's weaker members In tracing the emergence of a pro plaintiff humanitarian jurisprudence of the heart Karsten necessarily addresses the shortcomings of the reigning economic oriented paradigm regarding judicial rulemaking in nineteenth century America Originally published in 1997 A UNC Press Enduring Edition UNC Press Enduring Editions use the latest in digital technology to make available again books from our distinguished backlist that were previously out of print These editions are published unaltered from the original and are presented in affordable paperback formats bringing readers both historical and cultural value *History of the Yale Law School* Anthony T. Kronman, 2008-10-01 The entity that became the Yale Law School started life early in the nineteenth century as a proprietary school operated as a sideline by a couple of New Haven lawyers The New Haven school affiliated with Yale in the 1820s but it remained so frail that in 1845 and again in 1869 the University seriously considered closing it down From these humble origins the Yale Law School went on to become the most influential of American law schools In the later nineteenth century the School instigated the multidisciplinary approach to law that has subsequently won nearly universal acceptance In the 1930s the Yale Law School became the center of the jurisprudential movement known as legal realism which has ever since shaped American law In the second half of the twentieth century Yale brought the study of constitutional and international law to prominence overcoming the emphasis on private law that had dominated American law schools By the end of the twentieth century Yale was widely acknowledged as the nation's leading law school The essays in this collection trace these notable developments They originated as a lecture series convened to commemorate the tercentenary of Yale University A distinguished group of scholars assembled to explore the history of the School from the

earliest days down to modern times This volume preserves the highly readable format of the original lectures supported with full scholarly citations Contributors to this volume are Robert W Gordon Laura Kalman John H Langbein Gaddis Smith and Robert Stevens with an introduction by Anthony T Kronman

The Cambridge Companion to the United States Constitution Karen Orren, John W. Compton, 2018-03-22 This Companion provides a broad historically informed introduction to the study of the US constitutional system In place of the usual laundry lists of cases doctrines and theories it presents a picture of the constitutional system in action with separate sections devoted to constitutional principles organizational structures and the various legal and extra legal actions through which litigators and average citizens have attempted to bring about constitutional change Finally the volume covers a number of subjects that are rarely discussed in works aimed at a general audience but which are critical to ensuring that constitutional rights are honored in the day to day lives of citizens These include standing and causes of action suits against officeholders and the inner workings of the Foreign Intelligence Surveillance Court FISC This Companion places present day constitutional controversies in historical context and offers insights from a range of disciplines including history political science and law

Blackstone and his Commentaries Wilfrid Prest, 2009-07-06 One of the most celebrated works in the Anglo American legal tradition William Blackstone's Commentaries on the Laws of England 1765 9 has recently begun to attract renewed interest from legal and other scholars The Commentaries no longer dominate legal education as they once did especially in North America during the century after their first publication But they continue to be regularly cited in the judgments of superior courts of review on both sides of the Atlantic and elsewhere throughout the common law world They also provide constitutional cultural intellectual and legal historians with a remarkably comprehensive account of the role of law lawyers and the courts in the imperial superpower that was England on the cusp of the industrial revolution The life and character of Blackstone himself the nature and sources of his jurisprudence as expounded in the Commentaries and the impact of his great book both within and beyond his native shores are the main themes of this collection Individual essays treat Blackstone's early architectural treatises and their relationship to the Commentaries his idiosyncratic book collecting his views of the role of judges interpretation of statutes the law of marriage the status of wives natural law property law and the legalities of colonisation and the varied reception of the Commentaries in America and continental Europe Blackstone's bibliography and iconography also receive attention Combining the work of both eminent and emerging scholars this interdisciplinary venture sheds welcome new light on a legal classic and its continued influence

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