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Essays in Honor of Carl Wellman

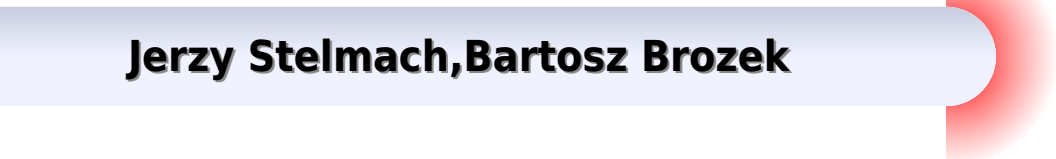
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Rights And Reason Essays In Honor Of Carl Wellman

Jerzy Stelmach, Bartosz Brozek



Rights And Reason Essays In Honor Of Carl Wellman:

Rights and Reason Marilyn Friedman, Larry May, K. Parsons, J. Stiff, 2013-06-29 The papers in this book have been collected in celebration of Carl Wellman who after forty five years is retiring from teaching Here I would like to highlight a few of the moments which have shaped Carl as a person and a philosopher Although his childhood was not unhappy Carl faced considerable challenges growing up in Manchester New Hampshire He never knew his father he and his mother Carolyn had little money and he fought a long battle with Stevens Johnson Syndrome an illness which made him more familiar with hospitals than any young person should be His mother once told me that there were times when the doctors put Carl in his own hospital room because while he was too young to be housed with adult men they did not want the other children to see him die Following a year of physician prescribed rest after high school the doctors recommended the University of Arizona in the misguided hope that the desert climate might improve his health In spite of the doctors hopes life in Tucson was not easy The heat takes its toll on everyone but the desert was especially oppressive for Carl since his unusually sensitive eyes were no match for the intense sun Still Carl enjoyed college *Rights and Reason*, 2000 *Being Apart from Reasons* Cláudio Jr. Michelin, 2006-03-09 *Being Apart from Reasons* deals with the question of how we should go about using reasons to decide what to do More particularly the book presents objections to the most common response given by contemporary legal and political theorists to the moral complexity of decision making in modern societies namely the attempt to release public agents from their argumentative burden by insulating a particular set of reasons from the general pool of reasons and assigning the former systematic priority over all other reasons That strategy is apparent both in Rawls claim that reasons concerning the right are systematically prior to reasons concerning the good and in Raz s claim that pre-emptive reasons are systematically prior to first order reasons The same strategy is also instantiated by certain arguments for the procedural value of law such as Jeremy Waldron s In the book each of those arguments for the insulation of reasons is objected to in order to defend the thesis the reasoning by public agents must always be as comprehensive as possible The remaining chapters object to those arguments mentioned above which aim at justifying the exclusion of certain reasons from public agents decision making *Methods of Legal Reasoning* Jerzy Stelmach, Bartosz Brozek, 2006-09-03 Anyone reflecting on the methodology of legal reasoning faces a difficult task The number of methodological theories in jurisprudence and the vast literature on the subject are not the only problems that have to be taken into account Perhaps the most striking difficulty concerning the methodology of legal argument is the heated debate between jurists legal theorists and philosophers of law that has been recurring since at least nineteenth century Therefore a justification is needed for writing yet another book concerning the methods of legal reasoning a book that aims to cover a lot of what has already been proposed in legal theory We believe that there is such a justification First the perspective that we adopt in the present book is unique at least in some respects We venture to look at the methodology of legal reasoning from the outside i.e. from a more general philosophical

perspective while taking into account the hard reality of law. This perspective enables us to ask questions about the justification for the methods of legal argument presented. Second, we do not want to defend one paradigmatic conception of legal reasoning. On the contrary, we put forward the thesis that there is a plurality of argumentative methods. The plurality, however, does not lead to relativism in legal decision making. Third, we reject any hierarchy of the methods of legal reasoning and take the view that one can speak only of the precision and flexibility of different methodologies.

On the Interpretation of Treaties Ulf Linderfalk, 2007-09-11

1 PURPOSE AND TOPIC We live in the age of treaties. Increasingly, bilateral and multilateral written agreements are used for the creation of new international legal standards. For political reasons, states are decreasingly less willing to rely upon customary international law for the regulation of legal matters. New technology and growing international exchange have established the need for an ever more precise and flexible international law, a need not satisfactorily met by customary law. In many fields of activity, we can seriously question whether the creation of a rule of custom is at all possible. Considering also that the number of states capable of drafting and concluding treaties seems to be growing, it is not surprising that treaties are concluded far more frequently than ever before. In several ways, this is a development that should be met with approval. By entering into written agreements, states avoid the difficulties inherent in customary international law. At the same time, the increasing number of treaties should also be causing concern. The more treaties that are concluded, the more treaties that will have to be applied, and the more treaties that are applied, the more often the question will arise: To what extent and under what specific conditions should such an application occur? Naturally, this includes the question of how treaties should be interpreted.

The Rule of Law: History, Theory and Criticism Pietro Costa, Danilo Zolo, 2007-05-06

Authors Costa and Zolo share the conviction that a proper understanding of the rule of law today requires reference to a global problematic horizon. This book offers some relevant guides for orienting the reader through a political and legal debate where the rule of law and the doctrine of human rights is a concept both controversial and significant at the national and international levels.

Knowledge Discovery from Legal Databases Andrew Stranieri, John Zeleznikow, 2006-03-30

Knowledge Discovery from Legal Databases is the first text to describe data mining techniques as they apply to law. Law students, legal academics, and applied information technology specialists are guided through all phases of the knowledge discovery from databases process with clear explanations of numerous data mining algorithms, including rule induction, neural networks, and association rules. Throughout the text, assumptions that make data mining in law quite different to mining other data are made explicit. Issues such as the selection of commonplace cases, the use of discretion as a form of open texture, transformation using argumentation concepts, and evaluation and deployment approaches are discussed at length.

Studies in Legal Logic Jaap Hage, 2006-03-30

Studies in Legal Logic is a collection of nine interrelated papers about the logic, epistemology, and ontology of law. All of the papers were written after the publication of the author's *Reasoning with Rules* and supplement the issues addressed therein. Some of the papers are new

others have been revised substantially after the publication of their original versions The emphasis is on analysis not on logical technicalities Studies in Legal Logic contains chapters about the nature of norms the role of coherence in the law the nature of defeasibility the role of dialectics in law and artificial intelligence the statics and dynamics of the law and the consistency of rules Moreover it contains a new simplified and yet more powerful version of Reason based Logic and extensive examples of how it can be used for the analysis of legal reasoning The examples deal with legal theory construction case based reasoning and judicial proof

Constitutionalism and Legal Reasoning Massimo La Torre, 2007-04-10 This book which consists of three chapters and two appendices is intended to connect subjects that have usually been considered as detached or not strongly connected constitutionalism legal argumentation and legal ethics Its main contention is that contemporary constitutionalism pushes towards a new style of legal reasoning which needs to take into account moral criteria and principles and that eventually the interpretative and moralist approach will lead to a somewhat untidy and less authoritarian concept of law A constitution to be taken seriously and as a distinct and superior source of law will end up referring to some sort of constitutional justice or judicial review And constitutional reasoning and justice need to make recourse to principles but principles to be given an operative content should be elaborated through some form of moral reasoning This reasoning however if it does not want to betray the spirit of constitutional democracy and the very idea of a constitution as a special moment of self determination could not be just Platonism a cognitivism without roots in the practice of public discourse and deliberation So that constitutionalism will not really do without a public sphere and some activism of the latter But if this is so the traditional concept of law based on hierarchy commands prescription sanction and in the last instance violence becomes obsolete A law which is a command cannot be congruent with a practice ruled by discourse that is I argue with constitution

The Concept of Rights George W. Rainbolt, 2006-03-09 What does it mean to have a right Previous answers to this question fall into two groups interest benefit theories of rights and choice will theories This book proposes an alternative to these traditional views the justified constraint theory of rights which avoids the pitfalls of earlier theories and solves the puzzle of the relational nature of rights The analysis shows that this theory applies without modification to past present and future beings

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