

THE SHAPING OF
NINETEENTH-CENTURY
LAW

John Appleton
and Responsible Individualism

DAVID M. GOLD

Shaping Of Nineteenth Century Law John Appleton And Responsible Individualism

John R. Vile



Shaping Of Nineteenth Century Law John Appleton And Responsible Individualism:

The Shaping of Nineteenth-Century Law David M. Gold, 1990-06-27 John Appleton was a prominent American lawyer who practiced in and around Bangor Maine beginning in the early 1820s and earned a national reputation as Chief Justice of Maine's supreme court Through a study of Appleton's life and thought Gold shows how the commitment to individual liberty and personal responsibility helped shape nineteenth century American law By tracing Appleton's life and law practice the book addresses an aspect of early American culture that has received little attention the nature of American individualism as embodied in the law The book contributes to American legal historiography in other ways It is one of just a handful of serious studies of state judges It adds to the current revisionist interpretation of laissez faire constitutionalism Finally it sheds light on some little studied areas of legal history in particular the history of the law of evidence Recently some historians have recognized that law in the nineteenth century incorporated broadly held social values or world views and a few have written on the relationship between law and individualism Gold contends these scholars have associated American individualism with self reliance in the nineteenth century and nonconformity in the twentieth Gold shows there is another side to individualism with self reliance in the nineteenth century and nonconformity in the twentieth Americans lived in society therefore their relations with one another had to be ordered While they believed in freedom of action they also believed that individuals had to be responsible for the effects of their actions on others The book is ideal reading for all students of American legal history in particular and American history in general

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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

Understanding State Constitutions G. Alan Tarr,2018-06-05 For many Americans the word constitution means just one thing the national Constitution According to a recent survey almost half do not know that individual states also have constitutions Scholars have also paid little attention to state constitutions favoring the apparently more dynamic and significant federal scene G Alan Tarr seeks to change that in this landmark book A leading authority on state legal issues he combines history law and political science to present a thorough and long needed account of the distinct and important role of state constitutions in American life Tarr shows that state constitutional politics are dominated by three crucial issues with little salience at the national level the distribution of power among groups and regions within states the scope of state and local governmental authority and the relation of the state to economic activity He explains how state constitutions differ from the national Constitution in treating not only matters of high principle but also such mundane subjects as ski trails and motor vehicle revenues He also explores why state constitutions unlike their federal counterpart have been so frequently amended and replaced Tarr concludes that the United States not only has a system of dual constitutionalism but also has dual constitutional cultures Powerfully argued and meticulously researched the book fills an important gap in political and legal studies and finally gives state constitutions the scholarly attention they richly deserve

Women, Money, and the Law Joyce W. Warren,2009-09 Did 19th century American women have money of their own To answer this question Women Money and the Law looks at the public and private stories of individual women within the context of American culture assessing how legal and cultural traditions affected women s lives particularly with respect to class and racial differences and analyzing the ways in which women were involved in economic matters Joyce Warren has uncovered a vast untapped

archive of legal documents from the New York Supreme Court that had been expunged from the official record By exploring hundreds of court cases involving women litigants between 1845 and 1875 women whose stories had in effect been erased from history and by studying the lives and works of a wide selection of 19th century women writers Warren has found convincing evidence of women s involvement with money The court cases show that in spite of the most egregious gender restrictions of law and custom many 19th century women lived independently coping with the legal and economic restraints of their culture while making money for themselves and often for their families as well They managed their lives and their money with courage and tenacity and fractured constructed gender identities by their lived experience Many women writers even when they did not publicly advocate economic independence for women supported themselves and their families throughout their writing careers and in their fiction portrayed the importance of money in women s lives Women from all backgrounds some defeated through ignorance and placidity others as ruthless and callous as the most hardened businessmen were in fact very much a part of the money economy Together the evidence of the court cases and the writers runs counter to the official narrative which scripted women as economically dependent and financially uninvolved Warren provides an illuminating counternarrative that significantly questions contemporary assumptions about the lives of 19th century women Women Money and the Law is an important corrective to the traditional view and will fascinate scholars and students in women s studies literary studies and legal history as well as the general reader

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 Republic according to John Marshall Harlan Linda Przybyszewski,2018-07-25 Supreme Court Justice John Marshall Harlan 1833 1911 is best known for condemning racial segregation in his dissent from Plessy v Ferguson in 1896 when he declared Our Constitution is color blind But in other judicial decisions as well as in some areas of his life Harlan s actions directly contradicted the essence of his famous statement Similarly Harlan was called the people s judge for favoring income tax and antitrust laws yet he also upheld doctrines that benefited large corporations Examining these and other puzzles in Harlan s judicial career Linda

Przybyszewski draws on a rich array of previously neglected sources including the verbatim transcripts of his 1897-98 lectures on constitutional law his wife's 1915 memoirs and a compilation of opinions drawn up by Harlan himself that he wanted republished Her thoughtful examination demonstrates how Harlan inherited the traditions of paternalism nationalism and religious faith how he reshaped these traditions in light of his experiences as a lawyer political candidate and judge and how he justified the vision of the law he wrote An innovative combination of personal and judicial biography this book makes an insightful contribution to American constitutional and intellectual history *Great American Judges* John R. Vile, 2003-06-23 Inspiring and instructive biographies of the 100 most influential judges from state and federal courts in one easy to access volume *Great American Judges* profiles 100 outstanding judges and justices in a full sweep of U.S. history Chosen by lawyers historians and political scientists these men and women laid the foundation of U.S. law A complement to *Great American Lawyers* together these two volumes create a complete picture of our nation's top legal minds from colonial times to today Following an introduction on the role of judges in American history are A-Z biographical entries portraying this diverse group from extraordinarily different backgrounds Students and history enthusiasts will appreciate the accomplishments of these role models and the connections between their inspiring lives and their far-reaching legal decisions William Rehnquist Oliver Wendell Holmes Jr and 12 other Supreme Court justices are found alongside federal judges like Skelly Wright who ordered school desegregation in 1960 Influential state judges such as Rose Elizabeth Bird California's first woman Supreme Court Chief Justice are also featured *The Great South Carolina Ku Klux Klan Trials, 1871-1872* Lou Falkner Williams, 2004 It is remarkable that the most serious intervention by the federal government to protect the rights of its new African American citizens during Reconstruction and well beyond has not until now received systematic scholarly study In *The Great South Carolina Ku Klux Klan Trials* Lou Falkner Williams presents a comprehensive account of the events following the Klan uprising in the South Carolina piedmont in the Reconstruction era It is a gripping story one that helps us better understand the limits of constitutional change in post Civil War America and the failure of Reconstruction The South Carolina Klan trials represent the culmination of the federal government's most substantial effort during Reconstruction to stop white violence and provide personal security for African Americans Federal interventions suspension of habeas corpus in nine counties widespread undercover investigations and highly publicized trials resulting in the conviction of several Klansmen are all detailed in Williams's study When the trials began the Supreme Court had yet to interpret the Fourteenth Amendment and the Enforcement Acts Thus the fourth federal circuit court became a forum for constitutional experimentation as the prosecution and defense squared off to present their opposing views The fate of the individual Klansmen was almost incidental to the larger constitutional issues in these celebrated trials It was the federal judge's devotion to state-centered federalism not a lack of concern for the Klan's victims that kept them from embracing constitutional doctrine that would have fundamentally altered the nature of the Union Placing the Klan trials in the context of

postemancipation race relations Williams shows that the Klan's campaign of terror in the upcountry reflected white determination to preserve prewar racial and social standards Her analysis of Klan violence against women breaks new ground revealing that white women were attacked to preserve traditional southern sexual mores while crimes against black women were designed primarily to demonstrate white male supremacy Well written cogently argued and clearly presented this comprehensive account of the Klan uprising in the South Carolina piedmont in the late 1860s and early 1870s makes a significant contribution to the history of Reconstruction and race relations in the United States

The Gilded Age Charles William Calhoun, 2007 The United States that entered the twentieth century was vastly different from the nation that emerged from the Civil War Industrialization mass immigration the growing presence of women in the work force and the rapid advance of the cities had transformed American society Broad in scope The Gilded Age brings together sixteen original essays that offer lively syntheses of modern scholarship while making their own interpretive arguments These engaging pieces allow students to consider the various societal cultural and political factors that make studying the Gilded Age crucial to our understanding of America today Charles W Calhoun connects all of these essays with a comprehensive introduction that places each article in an understandable historical context For the second edition of this successful book each essay was revised and three new pieces have been added that explore technology consumerism intellectual life and race in late nineteenth century America

Lochner V. New York Paul Kens, 1998 On the case of Joseph Lochner a baker in Utica NY charged in 1901 with violating the New York Bakeshop Act of 1895 by requiring an employee to work more than 60 hours in one week

The Law of Evidence in Victorian England C. J. W. Allen, 1997-09-04 In The Law of Evidence in Victorian England which was originally published in 1997 Christopher Allen provides a fascinating account of the political social and intellectual influences on the development of evidence law during the Victorian period His book sets out to challenge the traditional view of the significance of Jeremy Bentham's critique of the state of contemporary evidence law and shows how statutory reforms were achieved for reasons that had little to do with Bentham's radical programme and how evidence law was developed by common law judges in a way diametrically opposed to that advocated by Bentham Dr Allen's meticulous account provides a wealth of detail into the functioning of courts in Victorian England and will appeal to everyone interested in the English legal system during this period

Fundamentals of Neuroscience and the Law Erica Beecher-Monas, 2019-11-25 What does neuroscience tell us about voluntary movement Why is the definition of volition so different from that of the legal definition of intent Why are courts dismissing medically accepted mental health diagnoses How can we draft better laws that are more scientifically based What can recent advances in neuroscience tell us about the way we apply the law This volume provides groundbreaking insights into the areas of scientific evidence and the intersection of neuroscience and law and is the product of a collaboration by two experts in their respective fields It is a primer for all those interested in neurolaw

State Constitutions and Criminal Justice Barry Latzer, 1991-10-30 The new Judicial

Federalism is a significant development in American law more cases are being decided by state constitutions than ever before in history In this book Barry Latzer provides the most thorough treatment available of the criminal law aspects of the New Federalism His comprehensively researched and documented analysis of the state law movement covers all fifty states over the past two decades Drawing from both legal and political science perspectives Latzer examines recent court interpretations of state constitutions specifically those pertaining to the criminally accused He provides background on the development of the New Federalism details the relationship between the U S Supreme Court and state courts and analyzes all of the state constitutional provisions on the issues covered in the book This is an important resource for professionals and students of criminal justice and law and anyone concerned with the political ideological tension between federal and state courts

The Reconstruction Justice of Salmon P. Chase Harold Melvin Hyman, 1997 The demise of the Confederacy left a legacy of legal arrangements that raised fundamental and vexing questions regarding the legal rights and status of former slaves and the status of former Confederate states As Harold Hyman shows few individuals had greater impact on resolving these difficult questions than Salmon P Chase chief justice of the United States Supreme Court from 1865 to 1873 Hyman argues that in two cases *In Re Turner* 1867 and *Texas v White* 1869 Chase combined his abolitionist philosophy with an activist jurisprudence to help dismantle once and for all the deposed machineries of slavery and the Confederacy In these cases Chase sought to consolidate the gains of the Civil War era while demonstrating that the war had both preserved the precious core characteristics of the federal union of states and fundamentally improved the nature of both private and public law *In Re Turner* was a private law case decided at the federal circuit level It involved a black woman s claim that she a recent slave was being held in involuntary servitude Elizabeth Turner s mother had apprenticed Elizabeth to their former master who had not abided by his contractual obligations to provide Elizabeth with training and compensation substantively keeping her in slavery Chase s decision which relied upon due process and equal protection implications in the thirteenth amendment and 1866 Civil Rights Act confirmed the rights of emancipated slaves to bargain and contract with employers on a parity with white workers *Texas v White* was a public law case decided in the Supreme Court It revolved around the issue of whether the holders of U S bonds seized and sold by the Confederate state of Texas could demand payment after the war from that state s newly reconstructed government In effect Chase and his associate justices were asked to determine the legality of actions committed by all former Confederate states and thus to define what constituted a state Chase s opinion reaffirmed the Union s permanence and that of the constituent states in the federal union and the states duty to respect the legal rights and obligations of all citizens because states were people as well as acreages and institutions Hyman s exemplary analysis of these cases reveals how their political legal and constitutional aspects were so inextricably interwoven They secured for Chase a rostrum for both moral and legal reform from which he asserted his strong views on the fundamental rights of individuals and states in an era of sporadically increasing federal power Hyman s study provides a much needed

reevaluation of those cases both in the context of Chase's life and in terms of their mark on history

Administering Justice Richard L. Vining, Teena Wilhelm, 2023-08-22 Administering Justice examines the leadership role of chief justices in the American states including how those duties require chief justices to be part of the broader state political environment Vining and Wilhelm focus extensively on the power of chief justices as public spokespersons legislative liaisons and reform leaders In contrast to much existing research on chief justices in the states this study weighs their extrajudicial responsibilities rather than intracourt leadership By assessing the content of State of the Judiciary remarks delivered over a period of sixty years Vining and Wilhelm are able to analyze the reform agendas advanced by chief justices and determine what factors influence the likelihood of success These analyses confirm that chief justices engage with state politics in meaningful ways and that reactions to their proposals are influenced by ideological congruence with other political elites and the scope of their requests Administering Justice also examines the chief justice position as an institution provides a collective profile of its occupants and surveys growing diversity among court leaders

An Exemplary Whig David M. Gold, 2012-07-06 Historians have paid surprisingly little attention to state level political leaders and judges Edward Kent 1802-77 was both He served three terms as a state legislator two as mayor of Bangor two as governor and two as a judge of the state supreme court He represented Maine in the negotiations that resolved the long running northeastern border dispute between the United States and Great Britain and served for four years as the American consul in Rio de Janeiro The foremost Whig in Maine state politics and later a Republican judge Kent articulated classic Whig political views and carried them forward into his Whig Republican jurisprudence In examining Kent's career as Maine's quintessential Whig An Exemplary Whig reveals his characteristically conservative Whig outlook including an aversion toward disorder and a deep respect for law for existing institutions and for the wisdom of experience Kent brought his conservative disposition into the Republican Party He had no use for radical abolitionism preferring moderation and compromise to measures that endangered social order or the integrity of the Union Kent saw the slave power not abolitionism as the disrupter of the Union and he urged the fusion of all antislavery elements into a new Republican party In 1859 Maine's Republican governor appointed Kent to the state supreme court During his fourteen year tenure Kent adopted a Whiggish jurisprudence pragmatic and commonsensical and displayed a reverence for the common law and a distrust of theoretic speculation After his retirement he chaired a constitutional revision commission admonishing his fellow commissioners to bear in mind the practical wisdom that kept dangerous innovation in check As a politician during the Jacksonian era Kent exemplified Whig leadership at the local and state levels In his jurisprudence he carried the Whig persuasion into the Republican ascendancy and the beginnings of the Gilded Age

Maine Historical Society Quarterly, 1991

Keeping the People's Liberties John J. Dinan, 2021-10-08 Which branch of government should be entrusted with safeguarding individual rights Conventional wisdom assigns this responsibility to the courts on the grounds that liberty can only be protected through judicial interpretation of

bills of rights In fact it is difficult for many people even to conceive of any other way that rights might be protected John Dinan challenges this understanding by tracing and evaluating the different methods that have been used to protect rights in the United States from the founding until the present era By examining legislative statutes judicial decisions convention proceedings and popular initiatives in four representative states Massachusetts Virginia Michigan and Oregon Dinan shows that rights have been secured in the American polity in three principal ways Throughout the eighteenth and nineteenth centuries rights were protected primarily through representative institutions Then in the early twentieth century citizens began to turn to direct democratic institutions to secure their rights It was not until the mid twentieth century that judges came to be seen as the chief protectors of liberties By analyzing the relative ability of legislators citizens and judges to serve as guardians of rights Dinan s study demonstrates that each is capable of securing certain rights in certain situations Elected representatives are generally capable of protecting most rights but popular initiatives provide an effective mechanism for securing rights in the face of legislative intransigence and judicial decisions offer a superior means of protecting liberties in crisis times Accordingly rather than viewing rights protection as the peculiar province of any single institution this task ought to be considered the proper responsibility of all these institutions By undertaking a comparison of these institutional methods across such a wide expanse of time Keeping the People s Liberties makes a highly original contribution to the literature on rights protection and provides a new perspective on debates about the contemporary role of representative populist and judicial institutions

The History of Ohio Law Michael Les Benedict, John F. Winkler, 2004 In The Two Volume The History of Ohio Law distinguished legal historians practicing Ohio attorneys and judges present the history of Ohio law and the interaction between law and society in the state The first history of Ohio law in nearly seventy years and the most comprehensive compilation of essays on any state s law its twenty two topics range from the history of Ohio s constitutional conventions and legal institutions to the history of civil procedure evidence land use civil liberties and utility regulation The essays describe Ohio s legal institutions legal procedures and the substance of Ohio law as it has changed over time institutions have affected Ohio law and how the law has affected them The essays provide important information to practitioners and offer attorneys legal scholars historians and the public a broad understanding of the relationship between law and society in Ohio intersections between law and race gender and labor Insightful essays also discuss the development of Ohio s legal literature the impact of federal courts and Ohio s most important contributions to American constitutional development Written by twenty two leading lawyers and historians The History of Ohio Law will be the indispensable reference and invaluable first source for learning about law and society in Ohio

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