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Main Currents In American Legal Thought

Michael Les Benedict, John F. Winkler

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Main Currents in American Legal Thought Bernard Schwartz, 1993 A bracing work of scholarship that could inspire readers A virtue of Main Currents in American Legal Thought is that Mr Schwartz continually relates judicial opinions to what was happening in the country Books of the Times in the New York Times A worthy and welcome addition to the literature of American Law Careful documentation comprehensive index Highly recommended for all informed readers ChoiceProfessor Bernard Schwartz is well know to me and other members of the Supreme Court for the extraordinary range of his scholarship in constitutional law His works reflect meticulous research into original sources an inquiry that is so essential to a clear understanding of the meaning of the constitutional provisions that in assuring the liberty and dignity of every person distinguish our governmental system from all others The quality of Professor Schwartz's work is exemplary Associate Justice William J Brennan Jr United States Supreme Court from the 1988 Annual Survey of American Law commenting generally on Professor Schwartz's scholarship 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 The Genesis of Nineteenth-Century Civil Codes in the United States Julie Rocheton, 2024-03-04 Starting in Louisiana in the early nineteenth century this book takes the reader on a journey through the USA and the development of their civil codes From Georgia and New York civil codes traveled to California and Dakota Territory in the Great Plains they made their way to Montana North Dakota and South Dakota by the end of the century Unveiling the history of nineteenth century civil codes in the USA this book examines their origin stories circulation and usage by focusing on the social historical context of their drafting and legal concepts Rocheton s work published four decades after Cook s book on The American Codification Movement contains an exhaustive and insightful analysis of nineteenth century civil codes It thoroughly discusses their context how they were conceived discussed drafted and approved their main foreign influences and content and their practical operation Aniceto Masferrer University of Valencia While there is a vast corpus of literature on codification and more specifically civil codes in the civil law tradition it is much less known that six US states codified their private laws during the 19th century This book tells the fascinating story Spoiler alert it's a family affair Stefan Vogenauer Max Planck Institute for Legal History and Legal Theory Reconstructing American Legal Realism & Rethinking Private Law Theory Hanoch Dagan, 2013-08-20 In the myriad choices of interpretation judges face when confronted with rules and cases legal realists are concerned with how these doctrinal materials carry over into judicial outcomes What can explain past judicial behavior and predict its future course How can law constrain judgments

made by unelected judges How can the distinction between law and politics be maintained despite the collapse of law s autonomy in its positivist rendition In Reconstructing American Legal Realism Rethinking Private Law Theory Hanoch Dagan provides an innovative and useful interpretation of legal realism. He revives the legal realists rich account of law as a growing institution accommodating three sets of constitutive tensions power and reason science and craft and tradition and progress and demonstrates how the major claims attributed to legal realism fit into this conception of law Dagan seeks to rein in realist descendants who have become fixated on one aspect of the big picture and to dispel the misconceptions that those gone astray represent the tradition accurately or that realism is now merely a historical signpost He draws upon the realist texts of Oliver Wendell Holmes Karl Llewellyn and others to explain how legal realism offers important and unique jurisprudential insights that are not just a part of legal history but are also relevant and useful for a contemporary understanding of legal theory Building on this realist conception of law and enriching its texture Dagan addresses more particular jurisprudential questions. He shows that the realist achievement in capturing law s irreducible complexity is crucial to the reinvigoration of legal theory as a distinct scholarly subject matter and is also inspiring for a host of other more specific theoretical topics such as the rule of law the autonomy and taxonomy of private law the relationships between rights and remedies and the pluralism and perfectionism that typify private law Blackstone and His Critics Anthony Page, Wilfrid Prest, 2018-04-19 William Blackstone's Commentaries on the Laws of England 1765 69 is perhaps the most elegant and influential legal text in the history of the common law By one estimate Blackstone has been cited well over 10 000 times in American judicial opinions alone Prominent in recent reassessment of Blackstone and his works Wilfrid Prest also convened the Adelaide symposia which have now generated two collections of essays Blackstone and his Commentaries Biography Law History 2009 and Re Interpreting Blackstone's Commentaries A Seminal Text in National and International Contexts 2014 This third collection focuses on Blackstone's critics and detractors Leading scholars examine the initial reception of the Commentaries in the context of debates over law religion and politics in eighteenth century Britain and Ireland Having shown Blackstone's volumes to be a contested work of the Enlightenment the remaining chapters assess critical responses to Blackstone on family law the status of women and legal education in Britain and America While Blackstone and his Commentaries have been widely lauded and memorialised in marble this volume highlights the extent to which they have also attracted censure controversy and disparagement The Rehnquist Court Martin H. Belsky, 2002 In 1986 the Supreme Court's leading conservative William H Rehnquist was made Chief Justice Almost immediately legal scholars practitioners and pundits began questioning what his influence would be and whether he would remake US constitutional corpus in his own image This collected volume gathers together a distinguished group of scholars journalists judges and practitioners to reflect on the fifteen year impact of the Rehnquist Court The Social History of Crime and Punishment in America Wilbur R. Miller, 2012-07-20 Several encyclopedias overview the contemporary system of criminal justice in America but full

understanding of current social problems and contemporary strategies to deal with them can come only with clear appreciation of the historical underpinnings of those problems Thus this five volume work surveys the history and philosophy of crime punishment and criminal justice institutions in America from colonial times to the present It covers the whole of the criminal justice system from crimes law enforcement and policing to courts corrections and human services Among other things this encyclopedia explicates philosophical foundations underpinning our system of justice charts changing patterns in criminal activity and subsequent effects on legal responses identifies major periods in the development of our system of criminal justice and explores in the first four volumes supplemented by a fifth volume containing annotated primary documents evolving debates and conflicts on how best to address issues of crime and punishment Its signed entries in the first four volumes supplemented by a fifth volume containing annotated primary documents provide the historical context for students to better understand contemporary criminological debates and the contemporary shape of the U S system of law and justice The Burger Court Bernard Schwartz, 1998 Warren E Burger served as Chief Justice of the Supreme Court from 1969 to 1987 an often tumultuous period in which the Court wrestled with several compelling constitutional issues An impressive collection of writings by legal scholars and practitioners including many by people who worked directly or indirectly with the Court itself The Burger Court Counter Revolution or Confirmation is the first truly systematic review of the Court's activity during Warren Burger's tenure Such distinguished contributors as Derrick Bell Robert Drinan Anthony Lewis and Mark Tushnet review individual cases and jurisprudential trends in order to render comprehensive judgments of the Court's accomplishments and shortcomings The Nature and Sources of the Law by John Chipman Gray John Chipman Gray, 2019-08-22 First published in 1909 and then again in 1997 John Chipman Gray 1839 1915 spent the greater part of his professional life as a professor at Harvard Law School where he taught property trusts and future interests The Nature and Sources of the Law was first published in 1909 The book is divided into two parts which respectively look at Nature and Sources In Part I Gray warns that the study of jurisprudence in isolation could lead to dogmatism Rather he advocates the structure offered by common law with its reliance on flexible interpretations of statutes the use of all relevant cultural inputs and a highly adaptable approach to the resolution of disputes Gray in Part II turns his attention to sources of the law and begins with statutes Here he asserts that judges are the ones who actually turn into law going against the conventional scholarship that judges merely interprets statutes He also extensively examines the influence of tradition and the common law E Pluribus Unum W. C. Harris, 2005-04 Out of many one But how do the many become one without sacrificing difference or autonomy This problem was critical to both identity formation and state formation in late 18th and 19th century America The premise of this book is that American writers of the time came to view the resolution of this central philosophical problem as no longer the exclusive province of legislative or judicial documents but capable of being addressed by literary texts as well The project of E Pluribus Unum is twofold Its first and underlying concern is the general

philosophic problem of the one and the many as it came to be understood at the time W C Harris supplies a detailed account of the genealogy of the concept exploring both its applications and its paradoxes as a basis for state and identity formation Harris then considers the perilous integration of the one and the many as a motive in the major literary accomplishments of 19th century U S writers Drawing upon critical as well as historical resources and upon contexts as diverse as cosmology epistemology poetics politics and Bible translation he discusses attempts by Poe Whitman Melville and William James to resolve the problems of social construction caused by the paradox of e pluribus unum by writing literary and philosophical texts that supplement the nation's political founding documents Poe Eureka Whitman Leaves of Grass Melville Billy Budd and William James The Varieties of Religious Experience provide their own distinct sometimes contradictory resolutions to the conflicting demands of diversity and unity equality and hierarchy Each of these texts understands literary and philosophical writing as having the potential to transform conceptually or actually the construction of social order This work will be of great interest to literary and constitutional scholars The Failed Promise of Originalism Frank Cross, 2013-01-09 Originalism is an enormously popular and equally criticized theory of constitutional interpretation As Elena Kagan stated at her confirmation hearing We are all originalists Scores of articles have been written on whether the Court should use originalism and some have examined how the Court employed originalism in particular cases but no one has studied the overall practice of originalism The primary point of this book is an examination of the degree to which originalism influences the Court's decisions Frank B Cross tests this by examining whether originalism appears to constrain the ideological preferences of the justices which are a demonstrable predictor of their decisions Ultimately he finds that however theoretically appealing originalism may seem the changed circumstances over time and lack of reliable evidence means that its use is indeterminate and meaningless Originalism can be selectively deployed or manipulated to support and legitimize **Rebels in Law** John Clay Smith, 1998 The reflections on their lives in law of pioneer any decision desired by a justice black women lawyers 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 New York Times Co. v. Sullivan Forty reference and invaluable first source for learning about law and society in Ohio Years Later W. Wat Hopkins, 2017-10-03 The need to protect free speech on matters of governing importance more than any other element of government is the defining factor of a free society Nowhere in the law is that prospect more clearly explained than in the opinion in Times v Sullivan This special issue provides an example of the breadth and scope of Times v Sullivan and the ways in which the case continues to impact the jurisprudence of free expression It is introduced by two essays designed to provide an overview of the case providing insights into the origins of the dispute the Court was called upon to settle The next four articles are testimony to breadth the opinion in this case particularly dealing with aspects not often considered Combined they all demonstrate the lasting significance of what may be the most important free expression case the Court has delivered Just Words, Second Edition John M. Conley, William M. O'Barr, 2005-06-20 Previous edition 1st published in 1998 Just Words John M. Conley, William M. O'Barr, Robin Conley Riner, 2019-05-10 Is it just words when a lawyer cross examines a rape victim in the hopes of getting her to admit an interest in her attacker Is it just words when the Supreme Court hands down a decision or when business people draw up a contract In tackling the question of how an abstract entity exerts concrete power Just Words focuses on what has become the central issue in law and language research what language reveals about the nature of legal power John M Conley William M O Barr and Robin Conley Riner show how the microdynamics of the legal process and the largest questions of justice can be fruitfully explored through the field of linguistics Each chapter covers a language based approach to a different area of the law from the cross examinations of victims and witnesses to the inequities of divorce mediation Combining analysis of common legal events with a broad range of scholarship on language and law Just Words seeks the reality of power in the everyday practice and application of the law As the only study of its type the book is the definitive treatment of the topic and will be welcomed by students and specialists alike This third edition brings this essential text up to date with new chapters on nonverbal or multimodal communication in legal settings and law language and race The Fundamental Holmes Ronald K. L. Collins, 2010-07-19 No figure stands taller in the world of First Amendment law than Oliver Wendell Holmes Ir This is the first anthology of Justice Holmes s writings speeches and opinions concerning freedom of expression The book contains eight original essays designed to situate Holmes s works in historical and biographical context The volume is enriched by extensive commentaries concerning its many entries which consist of letters speeches book excerpts articles state court opinions and U S Supreme Court opinions The edited materials spanning Holmes s 1861 1864 service in the Civil War to his 1931 radio address to the nation offer a unique view of the thoughts of the father of the modern First Amendment The book s epilogue which includes a major discovery about Holmes s impact on American statutory law explores Holmes s free speech legacy In the process the reader comes to know Holmes and his jurisprudence of free speech as never before **Articles of Faith**

Ronojoy Sen, 2018-10-16 Examining the constitutional and legal foundations of the place of religion in India Articles of Faith studies the relationship between religion and state It closely analyses the decisions of the Supreme Court from the 1950s on Articles 25 30 of the Indian Constitution as well as other relevant laws and constitutional provisions. The book discusses the Supreme Court's interpretation of the constitutional right to freedom of religion and its influence on the discourse of secularism and nationalism While examining the role of the Court in defining and demarcating religion as well as religious freedom practices and organizations this volume also highlights important issues such as interpretative traditions and legal doctrines developed by the judiciary over the years This new edition has an expanded and revised introduction which looks at the new literature on secularism and religious jurisprudence both in India and other secular democracies It also includes an afterword which examines recent landmark judgments on religion by the Supreme Court of India such as the one on triple Civil Liberties and the State Christopher Peter Latimer, 2010-12-01 This book covers documents and related information pertaining to civil liberties in America including the debates over arbitrary state action due process equal protection freedom of speech and privacy issues The USA PATRIOT Act the actions and free speech of the Ku Klux Klan and the use of privately owned devices with GPS by law enforcement are all highly controversial topics that fall under the blanket of civil liberties and federal or state authority subjects that are important to most Americans This book provides a comprehensive examination of arbitrary state action post September 11 2001 combining detailed examinations of specific legislation with watershed coverage of issues such as freedom of speech press and religion as well as various aspects of criminal law and procedure This text presents documents from Britain the American colonial period the Founding period and the modern era including recent Supreme Court cases The author provides an accompanying analysis of each document providing insightful historical context and ramifications of the decisions and the laws passed **Ethical Issues and Citizen** Rights in the Era of Digital Government Surveillance Cropf, Robert A., Bagwell, Timothy C., 2016-02-02 Questions surrounding the concept of freedom versus security have intensified in recent years due to the rise of new technologies The increased governmental use of technology for data collection now poses a threat to citizens privacy and is drawing new ethical concerns Ethical Issues and Citizen Rights in the Era of Digital Government Surveillance focuses on the risks presented by the usage of surveillance technology in the virtual public sphere and how such practices have called for a re examination of what limits should be imposed Highlighting international perspectives and theoretical frameworks relating to privacy concerns this book is a pivotal reference source for researchers professionals and upper level students within the e governance realm

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