

PATTERNS OF AMERICAN JURISPRUDENCE



NEIL DUXBURY

Patterns Of American Jurisprudence

Christopher P. Banks, David M. O'Brien



Patterns Of American Jurisprudence:

Patterns of American Jurisprudence Neil Duxbury, 1995-06-08 This unique study offers a comprehensive analysis of American jurisprudence from its emergence in the later stages of the nineteenth century through to the present day The author argues that it is a mistake to view American jurisprudence as a collection of movements and schools which have emerged in opposition to each other By offering a highly original analysis of legal formalism legal realism policy science process jurisprudence has evolved as a collection of themes which reflect broader American intellectual and cultural concerns

Law as a Means to an End Brian Z. Tamanaha, 2006-10-02 The contemporary US legal culture is marked by ubiquitous battles among various groups attempting to seize control of the law and wield it against others in pursuit of their particular agenda This battle takes place in administrative legislative and judicial arenas at both the state and federal levels This book identifies the underlying source of these battles in the spread of the instrumental view of law the idea that law is purely a means to an end in a context of sharp disagreement over the social good It traces the rise of the instrumental view of law in the course of the past two centuries then demonstrates the pervasiveness of this view of law and its implications within the contemporary legal culture and ends by showing the various ways in which seeing law in purely instrumental terms threatens to corrode the rule of law

The Prophet of Harvard Law Andrew Porwancher, Austin Coffey, Taylor Jipp, Jake Mazeitis, 2022-09-01 Amid the halls of Harvard Law a professor of legend James Bradley Thayer shaped generations of students from 1874 to 1902 His devoted protégés included future Supreme Court justices appellate judges and law school deans The legal giants of the Progressive Era Holmes Brandeis and Hand to name only a few came under Thayer's tutelage in their formative years He imparted to his pupils a novel jurisprudence attuned to modern realities that would become known as legal realism Thayer's students learned to confront with candor the fallibility of the bench and the uncertainty of the law Most of all he instilled in them an abiding faith that appointed judges must entrust elected lawmakers to remedy their own mistakes if America's experiment in self government is to survive In the eyes of his loyal disciples Thayer was no mere professor he was a prophet bequeathing to them sacred truths His followers eventually came to preside over their own courtrooms and classrooms and from these privileged perches they remade the law in Thayer's image Thanks to their efforts Thayer's insights are now commonplace truisms **The Prophet of Harvard Law** draws from untouched archival sources to reveal the origins of the legal world we inhabit today It is a story of ideas and people in equal measure Long before judges don their robes or scholars their gowns they are mere law students on the cusp of adulthood At that pivotal phase a professor can make a mark that endures forever after Thayer's life and legacy testify to the profound role of mentorship in shaping the course of legal history

The Judicial Process Christopher P. Banks, David M. O'Brien, 2015-02-19 *The Judicial Process* Law Courts and Judicial Politics is an all new concise yet comprehensive core text that introduces students to the nature and significance of the judicial process in the United States and across the globe It is social scientific in its approach situating the

role of the courts and their impact on public policy within a strong foundation in legal theory or political jurisprudence as well as legal scholarship Authors Christopher P Banks and David M O'Brien do not shy away from the politics of the judicial process and offer unique insight into cutting edge and highly relevant issues In its distinctive boxes Contemporary Controversies over Courts and In Comparative Perspective the text examines topics such as the dispute pyramid the law and morality of same sex marriages the hardball politics of judicial selection plea bargaining trends the right to counsel and pay as you go justice judicial decisions limiting the availability of class actions constitutional courts in Europe the judicial role in creating major social change and the role lawyers juries and alternative dispute resolution techniques play in the U S and throughout the world Photos cartoons charts and graphs are used throughout the text to facilitate student learning and highlight key aspects of the judicial process

The Lost World of Classical Legal Thought William M. Wiecek, 2001 This text examines the ideology of elite lawyers and judges from the Gilded Age to the New Deal Between 1866 and 1937 this coherent outlook or legal orthodoxy shaped the way the American bar interpreted and understood the law **American Jurisprudence Proof of Facts, 3d Series**, 1988 Provides text and sample testimony to assist in preparing for and proving facts that may be in issue in judicial and administrative proceedings Kept up to date by packet supplements Library has second and third series

Research Handbook on Modern Legal Realism Shaubin Talesh, Elizabeth Mertz, Heinz Klug, 2021-03-26 This insightful Research Handbook provides a definitive overview of the New Legal Realism NLR movement reaching beyond historical and national boundaries to form new conversations Drawing on deep roots within the law and society tradition it demonstrates the powerful virtues of new legal realist research and its attention to the challenges of translation between social science and law It explores an impressive range of contemporary issues including immigration policing globalization legal education and access to justice concluding with an examination of how different social science disciplines intersect with NLR

The New European Private Law: Vol. 3: Essays on the Future of Private Law in Europe Martijn Hesselink, 2002-10-16 In The New European Private Law Martijn W Hesselink presents a revised and supplemented collection of essays written over the last five years on European private law He argues that the creation of a common private law in Europe is not merely a matter of rediscovering the old *ius commune* or of neutrally establishing the present common core which may be codified in a European Civil Code Rather it is a matter of making choices some of which may be highly controversial In this book he discusses some of the most important choices which will have to be made with regard to culture principles politics models rights concepts and structure in the new European private law

The Judicial Process E. W. Thomas, 2005-09-15 In the absence of a sound conception of the judicial role judges at present can be said to be muddling along They disown the declaratory theory of law but continue to behave and think as if it had not been discredited Much judicial reasoning still exhibits an unquestioning acceptance of positivism and a rulish predisposition Formalistic thinking continues to exert a perverse influence on the legal process This 2005 book dismantles these outdated theories and seeks to

bridge the gap between legal theory and judicial practice The author propounds a coherent and comprehensive judicial methodology for modern times Founded on the truism that the law exists to serve society and adopting the twin criteria of justice and contemporaneity with the times a judicial methodology is developed which is realistic and pragmatic and which embraces a revised conception of practical reasoning including in that conception a critical role for legal principles **The Most Activist Supreme Court in History** Thomas M. Keck, 2010-02-15 When conservatives took control of the federal judiciary in the 1980s it was widely assumed that they would reverse the landmark rights protecting precedents set by the Warren Court and replace them with a broad commitment to judicial restraint Instead the Supreme Court under Chief Justice William Rehnquist has reaffirmed most of those liberal decisions while creating its own brand of conservative judicial activism Ranging from 1937 to the present The Most Activist Supreme Court in History traces the legal and political forces that have shaped the modern Court Thomas M Keck argues that the tensions within modern conservatism have produced a court that exercises its own power quite actively on behalf of both liberal and conservative ends Despite the long standing conservative commitment to restraint the justices of the Rehnquist Court have stepped in to settle divisive political conflicts over abortion affirmative action gay rights presidential elections and much more Keck focuses in particular on the role of Justices O Connor and Kennedy whose deciding votes have shaped this uncharacteristically activist Court

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