

INTERVENTION AND DETACHMENT

*ESSAYS IN LEGAL
HISTORY AND
JURISPRUDENCE*

G. EDWARD WHITE

Intervention And Detachment Essays In Legal History And Jurisprudence

Neil Duxbury



Intervention And Detachment Essays In Legal History And Jurisprudence:

Intervention and Detachment G. Edward White, University Professor and John B. Minor Professor of Law G. Edward White, 1994 This collection of essays by G. Edward White provides in one place discussion of a number of the substantive issues of current interest in American legal history and jurisprudence. Ranging through a diverse body of subjects including doing history methodology and practice, judicial review and the politics of jurisprudence, the author both explores important topics and raises critical issues affecting the process of writing legal history. Topics include the nature and process of revisionism in historical writing, the role of lawyers in the New Deal, the roles of evidence and interpretation in legal history, critical theory, the significance of the Supreme Court in American culture, the historiography of the Marshall Court and the career of Justice Oliver Wendell Holmes. Written by one of the nation's preeminent legal historians, *Intervention and Detachment* skillfully integrates the theoretical and the concrete, offering scholars and students a vital survey of modern American legal history.

The Oxford Encyclopedia of American Political and Legal History Donald T. Critchlow, Philip R. VanderMeer, 2012-06-07 The Oxford Encyclopedia of American Political and Legal History brings together an unparalleled wealth of information about the laws, institutions, and actors that have governed America throughout its history. Entries cover key political figures, important legislation, and governmental institutions; broad political trends relating to elections, voting behavior, and party development; as well as key court cases, legal theories, constitutional interpretations, Supreme Court justices, and other major legal figures. Emphasizing the interconnectedness of politics and law, the more than 430 expertly written entries in the Encyclopedia provide an invaluable and in-depth overview of the development of America's political and legal frameworks.

Law in American History, Volume II G. Edward White, 2016-02-15 In this second installment of G. Edward White's sweeping history of law in America from the colonial era to the present, White covers the period between 1865 and 1929, which encompasses Reconstruction, rapid industrialization, a huge influx of immigrants, the rise of Jim Crow, the emergence of an American territorial empire, World War I, and the booming yet xenophobic 1920s. As in the first volume, he connects the evolution of American law to the major political, economic, cultural, social, and demographic developments of the era. To enrich his account, White draws from the latest research from across the social sciences: economic history, anthropology, and sociology, yet weaves those insights into a highly accessible narrative. Along the way, he provides a compelling case for why law can be seen as the key to understanding the development of American life as we know it. *Law in American History, Volume II* will be an essential text for both students of law and general readers.

Law in American History, Volume III G. Edward White, 2019-04-25 In *Law in American History, Volume III* (1930-2000), the eminent legal scholar G. Edward White concludes his sweeping history of law in America from the colonial era to the near present. Picking up where his previous volume left off at the end of the 1920s, White turns his attention to modern developments in both public and private law. One of his findings is that despite the massive changes in American society since the New Deal, some of the

landmark constitutional decisions from that period remain salient today. An illustration is the Court's sweeping interpretation of the reach of Congress's power under the Commerce Clause in *Wickard v Filburn* 1942, a decision that figured prominently in the Supreme Court's recent decision to uphold the Affordable Care Act. In these formative years of modern American jurisprudence, courts responded to and affected the emerging role of the state and federal governments as regulatory and redistributive institutions and the growing participation of the United States in world affairs. They extended their reach into domains they had mostly ignored: foreign policy, executive power, criminal procedure, and the rights of speech, sexuality, and voting. Today the United States continues to grapple with changing legal issues in each of those domains. *Law in American History*, Volume III, provides an authoritative introduction to how modern American jurisprudence emerged and evolved over the course of the twentieth century and the impact of law on every major feature of American life in that century. White's two preceding volumes and this one constitute a definitive treatment of the role of law in American history. The War

Prerogative Rosara Joseph, 2013-09-26. The war prerogative is the power of the Crown exercised by the government to declare war and deploy armed forces overseas. This book traces the theory and practice of the war prerogative in England from 1600 to the modern day and considers potential reform of the constitutional arrangements for its exercise. **Justice Oliver Wendell Holmes** G. Edward White, 1995. White goes beyond the labels to give readers a rounded portrait of this remarkable jurist. Covering Holmes' early life and time at Harvard, his ambivalent relationship with his father, and Civil War service, White also examines Holmes' childless marriage and his reputation as a preeminent legal figure. 14 halftones. Map

Law in American History G. Edward White, 2012-02-20. G. Edward White, a leading legal historian, presents *Law in American History*, a two-volume comprehensive narrative history of American law from the colonial period to the present. In this first volume, White explores the key turning points in roughly the first half of the American legal system, from the development of order in the colonies to the signing of the Constitution to the dissolution of the Union just before the Civil War. Thought-provoking and artfully written, *Law in American History*, Vol. 1 is an essential text for both students of law and general readers alike. Seriatim Scott Douglas Gerber, 1998-07. Seldom has American law seen a more towering figure than the great Chief Justice John Marshall. Yet even while acknowledging the indelible stamp Marshall put on the Supreme Court, it is possible, in fact necessary, to examine the pre-Marshall Court and its justices to gain a true understanding of the origins of American constitutionalism. The ten essays in this tightly edited volume were especially commissioned for the book, each by the leading authority on their particular subject. The result is a window onto the origins of the most powerful court in the world and onto American constitutionalism itself. *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

The Oxford Companion to United States History Paul S. Boyer, 2001-07-04 Here is a volume that is as big and as varied as the nation it portrays With over 1 400 entries written by some 900 historians and other scholars it illuminates not only America s political diplomatic and military history but also social cultural and intellectual trends science technology and medicine the arts and religion Here are the familiar political heroes from George Washington and Benjamin Franklin to Abraham Lincoln Woodrow Wilson and Franklin D Roosevelt But here too are scientists writers radicals sports figures and religious leaders with incisive portraits of such varied individuals as Thomas Edison and Eli Whitney Babe Ruth and Muhammed Ali Black Elk and Crazy Horse Margaret Fuller Emma Goldman and Marian Anderson even Al Capone and Jesse James The Companion illuminates events that have shaped the nation the Great Awakening Bunker Hill Wounded Knee the Vietnam War major Supreme Court decisions Marbury v Madison Roe v Wade landmark legislation the Fugitive Slave Law the Pure Food and Drug Act social movements Suffrage Civil Rights influential books The Jungle Uncle Tom s Cabin ideologies conservatism liberalism Social Darwinism even natural disasters and iconic sites the Chicago Fire the Johnstown Flood Niagara Falls the Lincoln Memorial Here too is the nation s social and cultural history from Films Football and the 4 H Club to Immigration Courtship and Dating Marriage and Divorce and Death and Dying Extensive multi part entries cover such key topics as the Civil War Indian History and Culture Slavery and the Federal Government A new volume for a new century The Oxford Companion to United States History covers everything from Jamestown and the Puritans to the Human Genome Project and the Internet from Columbus to Clinton Written in clear graceful prose for researchers browsers and general readers alike this is the volume that addresses the totality of the American experience its triumphs and heroes as well as its tragedies and darker moments

The Constitution and the New Deal G. Edward White, 2002-05-15 In a powerful new narrative G Edward White challenges the reigning understanding of twentieth century Supreme Court decisions particularly in the New Deal period He does this by rejecting such misleading characterizations as liberal conservative and reactionary and by reexamining several key topics in constitutional law Through a close reading of sources and analysis of the minds and sensibilities of a wide array of justices including Holmes Brandeis Sutherland Butler Van Devanter and McReynolds White rediscovers the world of early twentieth century constitutional law and jurisprudence He provides a counter story to that of the triumphalist New Dealers The deep conflicts over constitutional ideas that took place in the first half of the twentieth century are sensitively recovered and the morality play of good liberals vs mossbacks is replaced This is the only thoroughly researched and fully realized history of the constitutional thought and practice of all the Supreme Court justices during the turbulent period that made America modern

The American Judicial Tradition G. Edward White, 2007-01-11 In this revised third edition of a classic in American jurisprudence G Edward White updates his series of portraits of the most famous appellate judges in American history from John Marshall to

Oliver W Holmes to Warren E Burger with a new chapter on the Rehnquist Court White traces the development of the American judicial tradition through biographical sketches of the careers and contributions of these renowned judges In this updated edition he argues that the Rehnquist Court s approach to constitutional interpretation may have ushered in a new stage in the American judicial tradition The update also includes a new preface and revised bibliographic note

The Supreme Court and Religion in American Life, Vol. 2 James Hitchcock, 2009-01-10 School vouchers The Pledge of Allegiance The ban on government grants for theology students The abundance of church and state issues brought before the Supreme Court in recent years underscores an incontrovertible truth in the American legal system the relationship between the state and religion in this country is still fluid and changing This the second of two volumes by historian and legal scholar James Hitchcock offers a complete analysis and interpretation of the Court s historical understanding of religion explaining the revolutionary change that occurred in the 1940s In Volume I *The Odyssey of the Religion Clauses* Princeton Hitchcock provides the first comprehensive survey of the court cases involving the Religion Clauses including a number that scholars have ignored Here Hitchcock examines how in the early history of our country a strict separation of church and state was sustained through the opinions of Jefferson and Madison even though their views were those of the minority Despite the Founding Fathers ideas the American polity evolved on the assumption that religion was necessary to a healthy society and cooperation between religion and government was assumed This view was seldom questioned until the 1940s notes Hitchcock Then with the beginning of the New Deal and the appointment of justices who believed they had the freedom to apply the Constitution in new ways the judicial climate changed Hitchcock reveals the personal histories of these justices and describes how the nucleus of the Court after World War II was composed of men who were alienated from their own faiths and who looked at religious belief as irrational divisive and potentially dangerous assumptions that became enshrined in the modern jurisprudence of the Religion Clauses He goes on to offer a fascinating look at how the modern Court continues to grapple with the question of whether traditional religious liberty is to be upheld

Law's Stories Peter Brooks, Paul Gewirtz, 1996-01-01 The law is full of stories ranging from the competing narratives presented at trials to the Olympian historical narratives set forth in Supreme Court opinions How those stories are told and listened to makes a crucial difference to those whose lives are reworked in legal storytelling The public at large has increasingly been drawn to law as an area where vivid human stories are played out with distinctively high stakes And scholars in several fields have recently come to recognize that law s stories need to be studied critically This notable volume inspired by a symposium held at Yale Law School brings together an exceptional group of well known figures in law and literary studies to take a probing look at how and why stories are told in the law and how they are constructed and made effective Why is it that some stories confessions victim impact statements can be excluded from decisionmakers hearing How do judges claim the authority by which they impose certain stories on reality *Law s Stories* opens new perspectives on the law as narrative exchange

performance explanation It provides a compelling encounter of law and literature seen as two wary but necessary interlocutors Contributors J M Balkin Peter Brooks Harlon L Dalton Alan M Dershowitz Daniel A Farber Robert A Ferguson Paul Gewirtz John Hollander Anthony Kronman Pierre N Leval Sanford Levinson Catharine MacKinnon Janet Malcolm Martha Minow David N Rosen Elaine Scarry Louis Michael Seidman Suzanna Sherry Reva B Siegel Robert Weisberg

God and Man in the Law Robert Lowry Clinton,1997 In a wide ranging study based on legal history political theory and philosophical ideas going all the way back to Plato and Roman law Robert Clinton challenges current faith in an activist judiciary Claiming that a human centered Constitution leads to government by reductive moral theory and illegitimate judicial review he advocates a return to traditional jurisprudence and a God centered Constitution grounded in English common law and its precedents

Jurists and Judges Neil Duxbury,2001-03 Jurists and Judges examines the nature of academic influence and particularly the influence of juristic commentary on judicial decision making Focusing on three legal systems its author argues that inter jurisdictional comparisons of juristic influence are often simplistic and inattentive to problems of incommensurability The centrepiece of the study is a detailed chapter offering a nuanced history of juristic influence in England All academic lawyers who reflect upon the history and objectives of their profession who in other words wonder what it is that they are about will profit from reading this most informative and engaging book

Judicializing the Administrative State Hiroshi Okayama,2019-05-10 A basic feature of the modern US administrative state taken for granted by legal scholars but neglected by political scientists and historians is its strong judiciary Formal or court like adjudication was the primary method of first order agency policy making during the first half of the twentieth century Even today most US administrative agencies hire administrative law judges and other adjudicators conducting hearings using formal procedures autonomously from the agency head No other industrialized democracy has even come close to experiencing the systematic state judicialization that took place in the United States Why did the American administrative state become highly judicialized rather than developing a more efficiency oriented Weberian bureaucracy Legal scholars argue that lawyers as a profession imposed the judicial procedures they were the most familiar with on agencies But this explanation fails to show why the judicialization took place only in the United States at the time it did Okayama demonstrates that the American institutional combination of common law and the presidential system favored policy implementation through formal procedures by autonomous agencies and that it induced the creation and development of independent regulatory commissions explicitly modeled after courts from the late nineteenth century These commissions judicialized the state not only through their proliferation but also through the diffusion of their formal procedures to executive agencies over the next half century which led to a highly fairness oriented administrative state

Michigan Law Review ,1996

Alger Hiss's Looking-Glass Wars G. Edward White,2004-03-11 For decades a great number of Americans saw Alger Hiss as an innocent victim of McCarthyism a distinguished diplomat railroaded by an ambitious Richard Nixon And even as the case against Hiss

grew over time his dignified demeanor helped create an aura of innocence that outshone the facts in many minds Now G Edward White deftly draws together the countless details of Hiss s life from his upper middle class childhood in Baltimore and his brilliant success at Harvard to his later career as a self made martyr to McCarthyism to paint a fascinating portrait of a man whose life was devoted to perpetuating a lie White catalogs the evidence that proved Hiss s guilt from Whittaker Chambers s famous testimony to copies of State Department documents typed on Hiss s typewriter to Allen Weinstein s groundbreaking investigation in the 1970s The author then explores the central conundrums of Hiss s life Why did this talented lawyer become a Communist and a Soviet spy Why did he devote so much of his life to an extensive public campaign to deny his espionage And how without producing any new evidence did he convince many people that he was innocent White offers a compelling analysis of Hiss s behavior in the face of growing evidence of his guilt revealing how this behavior fit into an ongoing pattern of denial and duplicity in his life The story of Alger Hiss is in part a reflection of Cold War America a time of ideological passions partisan battles and secret lives It is also a story that transcends a particular historical era a story about individuals who choose to engage in espionage for foreign powers and the secret worlds they choose to conceal In White s skilled hands the life of Alger Hiss comes to illuminate both of those themes

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Table of Contents Intervention And Detachment Essays In Legal History And Jurisprudence

1. Understanding the eBook Intervention And Detachment Essays In Legal History And Jurisprudence
 - The Rise of Digital Reading Intervention And Detachment Essays In Legal History And Jurisprudence
 - Advantages of eBooks Over Traditional Books
2. Identifying Intervention And Detachment Essays In Legal History And Jurisprudence
 - Exploring Different Genres
 - Considering Fiction vs. Non-Fiction
 - Determining Your Reading Goals
3. Choosing the Right eBook Platform
 - Popular eBook Platforms
 - Features to Look for in an Intervention And Detachment Essays In Legal History And Jurisprudence
 - User-Friendly Interface
4. Exploring eBook Recommendations from Intervention And Detachment Essays In Legal History And Jurisprudence
 - Personalized Recommendations
 - Intervention And Detachment Essays In Legal History And Jurisprudence User Reviews and Ratings
 - Intervention And Detachment Essays In Legal History And Jurisprudence and Bestseller Lists
5. Accessing Intervention And Detachment Essays In Legal History And Jurisprudence Free and Paid eBooks
 - Intervention And Detachment Essays In Legal History And Jurisprudence Public Domain eBooks
 - Intervention And Detachment Essays In Legal History And Jurisprudence eBook Subscription Services

- Intervention And Detachment Essays In Legal History And Jurisprudence Budget-Friendly Options
- 6. Navigating Intervention And Detachment Essays In Legal History And Jurisprudence eBook Formats
 - ePub, PDF, MOBI, and More
 - Intervention And Detachment Essays In Legal History And Jurisprudence Compatibility with Devices
 - Intervention And Detachment Essays In Legal History And Jurisprudence Enhanced eBook Features
- 7. Enhancing Your Reading Experience
 - Adjustable Fonts and Text Sizes of Intervention And Detachment Essays In Legal History And Jurisprudence
 - Highlighting and Note-Taking Intervention And Detachment Essays In Legal History And Jurisprudence
 - Interactive Elements Intervention And Detachment Essays In Legal History And Jurisprudence
- 8. Staying Engaged with Intervention And Detachment Essays In Legal History And Jurisprudence
 - Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - Following Authors and Publishers Intervention And Detachment Essays In Legal History And Jurisprudence
- 9. Balancing eBooks and Physical Books Intervention And Detachment Essays In Legal History And Jurisprudence
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection Intervention And Detachment Essays In Legal History And Jurisprudence
- 10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
- 11. Cultivating a Reading Routine Intervention And Detachment Essays In Legal History And Jurisprudence
 - Setting Reading Goals Intervention And Detachment Essays In Legal History And Jurisprudence
 - Carving Out Dedicated Reading Time
- 12. Sourcing Reliable Information of Intervention And Detachment Essays In Legal History And Jurisprudence
 - Fact-Checking eBook Content of Intervention And Detachment Essays In Legal History And Jurisprudence
 - Distinguishing Credible Sources
- 13. Promoting Lifelong Learning
 - Utilizing eBooks for Skill Development
 - Exploring Educational eBooks
- 14. Embracing eBook Trends

- Integration of Multimedia Elements
- Interactive and Gamified eBooks

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