



Albert W. Alschuler

LAW

WITHOUT

VALUES

THE LIFE, WORK, AND LEGACY OF
Justice Holmes

Law Without Values The Life Work And Legacy Of Justice Holmes

Stephen M. Feldman



Law Without Values The Life Work And Legacy Of Justice Holmes:

Law Without Values Albert W. Alschuler,2000-12-01 In recent decades Oliver Wendell Holmes has been praised as the only great American legal thinker and the most illustrious figure in the history of American law But in Albert Alschuler s critique of both Justice Holmes and contemporary legal scholarship a darker portrait is painted that of a man who among other things espoused Social Darwinism favored eugenics and as he himself acknowledged came devilish near to believing that might makes right

Law Without Values Albert W. Alschuler,2002-03-01 In recent decades Oliver Wendell Holmes has been praised as the only great American legal thinker and the most illustrious figure in the history of American law But in Albert Alschuler s critique of both Justice Holmes and contemporary legal scholarship a darker portrait is painted that of a man who among other things espoused Social Darwinism favored eugenics and as he himself acknowledged came devilish near to believing that might makes right

The Pragmatism and Prejudice of Oliver Wendell Holmes Jr. Seth Vannatta,2019-06-26 This book investigates the extent to which various scholarly labels are appropriate for the work of Oliver Wendell Holmes Jr As Louis Menand wrote Holmes has been called a formalist a positivist a utilitarian a realist a historicist a pragmatist not to mention a nihilist Each of the eight chapters investigates one label analyzes the secondary texts that support the use of the term to characterize Holmes s philosophy and takes a stand on whether or not the category is appropriate for Holmes by assessing his judicial and nonjudicial publications including his books articles and posthumously published correspondences The thrust of the collection as a whole nevertheless bends toward the stance that Holmes is a pragmatist in his jurisprudence ethics and politics The final chapter by Susan Haack makes that case explicitly Edited by Seth Vannatta this book will be of particular interest to students and faculty working in law jurisprudence philosophy intellectual history American Studies political science and constitutional theory

Journal of Legal Studies , *Laughing at the Gods* Allan C. Hutchinson,2012-02-20 Any effort to understand how law works has to take seriously its main players judges Like any performance judging should be evaluated by reference to those who are its best exponents Not surprisingly the debate about what makes a great judge is as heated and inconclusive as the debate about the purpose and nature of law itself History shows that those who are candidates for a judicial hall of fame are game changers who oblige us to rethink what it is to be a good judge So the best of judges must tread a thin line between modesty and hubris they must be neither mere umpires nor demigods The eight judges showcased in this book demonstrate that if the test of good judging is not about getting it right but doing it well then the measure of great judging is about setting new standards for what counts as judging well

The Canon of American Legal Thought David Kennedy,William W. Fisher III,2018-06-05 This anthology presents for the first time full texts of the twenty most important works of American legal thought since 1890 Drawing on a course the editors teach at Harvard Law School the book traces the rise and evolution of a distinctly American form of legal reasoning These are the articles that have made these authors from Oliver Wendell Holmes Jr to Ronald Coase from Ronald Dworkin to

Catherine MacKinnon among the most recognized names in American legal history. These authors proposed answers to the classic question: What does it mean to think like a lawyer, an American lawyer? Their answers differed but taken together they form a powerful brief for the existence of a distinct and powerful style of reasoning and of rulership. The legal mind is as often critical as constructive, however, and these texts form a canon of critical thinking, a toolbox for resisting and unravelling the arguments of the best legal minds. Each article is preceded by a short introduction highlighting the article's main ideas and situating it in the context of its author's broader intellectual projects, the scholarly debates of his or her time, and the reception the article received. Law students and their teachers will benefit from seeing these classic writings in full in the context of their original development. For lawyers, the collection will take them back to their best days in law school. All readers will be struck by the richness, the subtlety, and the sophistication with which so many of what have become the clichés of everyday legal argument were originally formulated.

The Servant Lawyer Robert F. Cochran, 2024-02-20. How does everyday law practice relate to Jesus' call to follow him in servanthood? For students considering a career in law, as well as for seasoned attorneys, this honest and accessible book from Robert F. Cochran Jr. casts an encouraging vision for how lawyers can love and serve their neighbor in every facet of their work.

In Reckless Hands: Skinner v. Oklahoma and the Near-Triumph of American Eugenics Victoria F. Nourse, 2008-07-17. The disturbing, forgotten history of America's experiment with eugenics. In the 1920s and 1930s, thousands of men and women were sterilized at asylums and prisons across America. Believing that criminality and mental illness were inherited, state legislatures passed laws calling for the sterilization of habitual criminals and the feeble-minded. But in 1936, inmates at Oklahoma's McAlester prison refused to cooperate; a man named Jack Skinner was the first to come to trial. A colorful and heroic cast of characters from the inmates themselves to their devoted self-taught lawyer would fight the case all the way to the U.S. Supreme Court. Only after Americans learned the extent of another large-scale eugenics project in Nazi Germany would the inmates triumph. Combining engrossing narrative with sharp legal analysis, Victoria F. Nourse explains the consequences of this landmark decision, still vital today, and reveals the stories of these forgotten men and women who fought for human dignity and the basic right to have a family.

The Fuller Court James W. Ely Jr., 2003-08-13. A fresh interpretation of the workings and legacy of the Supreme Court during the tenure of Chief Justice Melville W. Fuller. *The Fuller Court: Justices, Rulings, and Legacy* presents an in-depth analysis of the decisions and impact of the U.S. Supreme Court during the twenty-two-year reign of Chief Justice Melville W. Fuller. An exploration of key Court decisions ranging from railroad rate regulation and the Due Process Clause to the 1894 income tax reveals how the Court assigned a high priority to individual liberty, which it defined largely in economic terms. A revealing discussion of the Commerce Clause and the Interstate Commerce Commission shows how the Fuller Court both limited and accepted some expansion of federal authority. Profiles of the nineteen justices who served on the Fuller Court place a special emphasis on those who made the most significant impact, including John Marshall Harlan and Samuel F.

Miller and Oliver Wendell Holmes Jr **Searching for W.P.M. Kennedy** Martin L. Friedland,2020-04-02 Born in Ireland in 1879 W P M Kennedy was a distinguished Canadian academic and the leading Canadian constitutional law scholar for much of the twentieth century Despite his trailblazing career and intriguing personal life Kennedy s story is largely a mystery Weaving together a number of key events Martin L Friedland s lively biography discusses Kennedy s contributions as a legal and interdisciplinary scholar his work at the University of Toronto where he founded the Faculty of Law as well as his personal life detailing stories about his family and important friends such as Prime Minister Mackenzie King Kennedy earned a reputation in some circles for being something of a scoundrel and Friedland does not shy away from addressing Kennedy s exaggerated involvement in drafting the Irish constitution his relationships with female students and his quest for recognition Throughout the biography Friedland interjects with his own personal narratives surrounding his interactions with the Kennedy family and how he came to acquire the private letters noted in the book The result is a readable accessible biography of an important figure in the history of Canadian intellectual life **The Death of Humanity** Richard Weikart,2016-04-04 A book to challenge the status quo spark a debate and get people talking about the issues and questions we face as a country Legal Education in the Digital Age Edward Rubin,2012-04-16 During the coming decades the digital revolution that has transformed so much of our world will transform legal education as well The digital production and distribution of course materials will powerfully affect both the content and the way materials are used in the classroom and library This collection of essays by leading legal scholars in various fields explores three aspects of this coming transformation The first set of essays discusses the way digital materials will be created and how they will change concepts of authorship as well as methods of production and distribution The second set explores the impact of digital materials on law school classrooms and law libraries and the third set considers the potential transformation of the curriculum that the materials are likely to produce Taken together these essays provide a guide to momentous changes that every legal teacher and scholar needs to understand *The Schoolhouse Gate* Justin Driver,2019-08-06 A Washington Post Notable Book of the Year A New York Times Book Review Editors Choice An award winning constitutional law scholar at the University of Chicago who clerked for Judge Merrick B Garland Justice Stephen Breyer and Justice Sandra Day O Connor gives us an engaging and alarming book that aims to vindicate the rights of public school students which have so often been undermined by the Supreme Court in recent decades Judicial decisions assessing the constitutional rights of students in the nation s public schools have consistently generated bitter controversy From racial segregation to unauthorized immigration from antiwar protests to compulsory flag salutes from economic inequality to teacher led prayer these are but a few of the cultural anxieties dividing American society that the Supreme Court has addressed in elementary and secondary schools *The Schoolhouse Gate* gives a fresh lucid and provocative account of the historic legal battles waged over education and illuminates contemporary disputes that continue to fracture the nation Justin Driver maintains that since the 1970s the

Supreme Court has regularly abdicated its responsibility for protecting students constitutional rights and risked transforming public schools into Constitution free zones Students deriving lessons about citizenship from the Court s decisions in recent decades would conclude that the following actions taken by educators pass constitutional muster inflicting severe corporal punishment on students without any procedural protections searching students and their possessions without probable cause in bids to uncover violations of school rules random drug testing of students who are not suspected of wrongdoing and suppressing student speech for the view point it espouses Taking their cue from such decisions lower courts have upheld a wide array of dubious school actions including degrading strip searches repressive dress codes draconian zero tolerance disciplinary policies and severe restrictions on off campus speech Driver surveys this legal landscape with eloquence highlights the gripping personal narratives behind landmark clashes and warns that the repeated failure to honor students rights threatens our basic constitutional order This magisterial book will make it impossible to view American schools or America itself in the same way again

The Democratic Constitution Brian E. Butler,2017-08-21 The Supreme Court is seen today as the ultimate arbiter of the Constitution Once the Court has spoken it is the duty of the citizens and their elected officials to abide by its decisions But the conception of the Supreme Court as the final interpreter of constitutional law took hold only relatively recently Drawing on the pragmatic ideals characterized by Charles Sanders Peirce John Dewey Charles Sabel and Richard Posner Brian E Butler shows how this conception is inherently problematic for a healthy democracy Butler offers an alternative democratic conception of constitutional law democratic experimentalism and applies it in a thorough reconstruction of Supreme Court cases across the centuries such as Brown v Board of Education Citizens United v Federal Election Commission Lucas v South Carolina Coastal Council and Lochner v New York In contrast to the traditional tools and conceptions of legal analysis that see the law as a formally unique and separate type of practice democratic experimentalism combines democratic aims and experimental practice Butler also suggests other directions jurisprudential roles could take for example adjudication could be performed by primary stakeholders with better information Ultimately Butler argues persuasively for a move away from the current absolute centrality of courts toward a system of justice that emphasizes local rule and democratic choice

Cultural Foundations of Political Psychology Paul Roazen,2018-02-06 Over the centuries all of the great philosophers made psychology central to understanding social life Indeed the ancient Greeks thought it impossible to conceive of political life without insight into the human soul Yet insufficient professional legitimization attaches to the central importance of modern depth psychology in understanding politics Cultural Foundations of Political Psychology explores the linkages between psychology and politics focusing on how rival conceptions of the good life and unspoken moral purposes in the social sciences have led to sectarian intolerance Roazen has always approached the history of psychoanalysis with the conviction that ethical issues are implicit in every clinical encounter Thus his opening chapter on Erich Fromm s exclusion from the International Psychoanalytic Association

touches on a host of political matters including collaboration as opposed to resistance to Nazi tyranny Roazen also brings a public private perspective to such well known episodes as the Hiss Chambers case the circumstances of Virginia Woolf s madness and suicide and the matter of CIA funding of the monthly Encounter He deals with the reaction to psychoanalysis on the part of three major philosophers Althusser Wittgenstein and Buber and looks at the link between psychology and politics in the work of such political theorists as Machiavelli Rousseau Burke Tocqueville Berlin and Arendt A chapter grappling with Vietnam and the Cold War illustrates how political psychology should be concerned with questions of an ethical or ought character In examining the social and psychological bases for political theorizing Roazen shows how both psychology and politics must change and redefine their methodologies as a result of their interaction Roazen concludes with a chapter on how political psychology must deal with issues posed by changing conceptions of femininity This volume is a pioneering exploration of the intersection of psychology and politics

Civilizing Authority Patrick M. Brennan,2007-01-01 All phases of our social life depend on authority without it families schools corporations churches and civil governments would cease to exist and human life with them *Civilizing Authority* explores the essential commonalities of authority across the spectrum of human living it also probes the risk that authoritarian abuse will arrive to compensate for the elusiveness of genuine authority in a post Christian materialist world

Free Expression and Democracy in America Stephen M. Feldman,2009-05-15 From the 1798 Sedition Act to the war on terror numerous presidents members of Congress Supreme Court justices and local officials have endorsed the silencing of free expression If the connection between democracy and the freedom of speech is such a vital one why would so many governmental leaders seek to quiet their citizens *Free Expression and Democracy in America* traces two rival traditions in American culture suppression of speech and dissent as a form of speech to provide an unparalleled overview of the law history and politics of individual rights in the United States Charting the course of free expression alongside the nation s political evolution from the birth of the Constitution to the quagmire of the Vietnam War Stephen M Feldman argues that our level of freedom is determined not only by the Supreme Court but also by cultural social and economic forces Along the way he pinpoints the struggles of excluded groups women African Americans and laborers to participate in democratic government as pivotal to the development of free expression In an age when our freedom of speech is once again at risk this momentous book will be essential reading for legal historians political scientists and history buffs alike

Breeding Contempt Mark A. Largent,2011 From the Publisher Most closely associated today with the Nazis and World War II atrocities eugenics is sometimes described as a government orchestrated breeding program other times as a pseudo science and often as the first step leading to genocide Less frequently is it depicted as a movement having links to America a nation that has historically prided itself for its scientific rationality But eugenics does have a history in the United States a history that is largely the story of biologist Charles Davenport Davenport who led the Eugenics Records Office in the late nineteenth century provided physicians social scientists and lawmakers with the scientific

data and authority that enabled them to coercively sterilize men and women who were thought to be socially deviant unfit to pass on their genes and unable to raise healthy children Moreover Mark A Largent shows how even in modern times remnants of eugenics philosophies persist in this country as certain public figures advocate a brand of birth control such as progesterone shots for male criminals that are only steps away from the castrations that were once performed **From a Culture of Dependency to a Culture of Success** Y.S. Wishnick,2011-11-23 There is an old story of a famous business tycoon that was near death His lifelong business partner approached him on his deathbed and asked if hed like to see his great grandchild The business executive opened his eyes and whispered in his associates ear No my friend I do not want to know what Ive missed More and more Americans are missing out on the greatness of their country its passion for excellence its commitment to the dignity and self worth of each individual and its belief that every person has the right to achieve their own vision for success Chaos confusion disappointment and hopelessness have pushed and pulled Americans into a state of dependency From the individual to the family to our local communities Americans are constantly looking for others to solve the problems and challenges they face This has lead to victimology class warfare and ultimately bad public policy where a culture of dependency is becoming the new normal As people think themselves into believing that they cant make it on their own they are rejecting their own potential and capacity to act Worse they are missing out on the person they were destined to become The Progressive Revolution in Politics and Political Science John Marini,Ken Masugi,2005-06-30 We cannot understand our current political situation and the scholarship used to comprehend our politics without taking full account of the Progressive revolution of a century ago This fundamental shift in studying the political world relegated the theory and practice of the Founders to an antiquated historical phase By contrast our contributors see beyond the horizon of Progressivism to take account of the Founders moral and political premises By doing so they make clear the broader context of current political science disputes a fitting subject as American professional political science enters its second century The contributors to the volume specify the changes in the new world that Progressivism brought into being Part I emphasizes the contrast between various Progressives and their doctrines and the American Founding on political institutions including the presidency political parties and the courts statesmen include Frederick Douglass Theodore Roosevelt Woodrow Wilson and John Marshall Part II emphasizes the radical nature of Progressivism in a variety of areas critical to the American constitutional government and self understanding of the American mind Subjects covered include social science property rights Darwinism free speech and political science as a liberal art The essays provide intellectual guidance to political scientists and indicate to political practitioners the peculiar perspectives embedded in current political science Published in cooperation with The Claremont Institute

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Table of Contents Law Without Values The Life Work And Legacy Of Justice Holmes

1. Understanding the eBook Law Without Values The Life Work And Legacy Of Justice Holmes
 - The Rise of Digital Reading Law Without Values The Life Work And Legacy Of Justice Holmes
 - Advantages of eBooks Over Traditional Books
2. Identifying Law Without Values The Life Work And Legacy Of Justice Holmes
 - 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 Law Without Values The Life Work And Legacy Of Justice Holmes
 - User-Friendly Interface

4. Exploring eBook Recommendations from Law Without Values The Life Work And Legacy Of Justice Holmes
 - Personalized Recommendations
 - Law Without Values The Life Work And Legacy Of Justice Holmes User Reviews and Ratings
 - Law Without Values The Life Work And Legacy Of Justice Holmes and Bestseller Lists
5. Accessing Law Without Values The Life Work And Legacy Of Justice Holmes Free and Paid eBooks
 - Law Without Values The Life Work And Legacy Of Justice Holmes Public Domain eBooks
 - Law Without Values The Life Work And Legacy Of Justice Holmes eBook Subscription Services
 - Law Without Values The Life Work And Legacy Of Justice Holmes Budget-Friendly Options
6. Navigating Law Without Values The Life Work And Legacy Of Justice Holmes eBook Formats
 - ePub, PDF, MOBI, and More
 - Law Without Values The Life Work And Legacy Of Justice Holmes Compatibility with Devices
 - Law Without Values The Life Work And Legacy Of Justice Holmes Enhanced eBook Features
7. Enhancing Your Reading Experience
 - Adjustable Fonts and Text Sizes of Law Without Values The Life Work And Legacy Of Justice Holmes
 - Highlighting and Note-Taking Law Without Values The Life Work And Legacy Of Justice Holmes
 - Interactive Elements Law Without Values The Life Work And Legacy Of Justice Holmes
8. Staying Engaged with Law Without Values The Life Work And Legacy Of Justice Holmes
 - Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - Following Authors and Publishers Law Without Values The Life Work And Legacy Of Justice Holmes
9. Balancing eBooks and Physical Books Law Without Values The Life Work And Legacy Of Justice Holmes
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection Law Without Values The Life Work And Legacy Of Justice Holmes
10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
11. Cultivating a Reading Routine Law Without Values The Life Work And Legacy Of Justice Holmes
 - Setting Reading Goals Law Without Values The Life Work And Legacy Of Justice Holmes
 - Carving Out Dedicated Reading Time

12. Sourcing Reliable Information of Law Without Values The Life Work And Legacy Of Justice Holmes
 - Fact-Checking eBook Content of Law Without Values The Life Work And Legacy Of Justice Holmes
 - 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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