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Making Our Democracy Work A Judges View

Vicki C. Jackson, Mark Tushnet



Making Our Democracy Work A Judges View:

Making Our Democracy Work Stephen Breyer, 2011-09-13 Charged with the responsibility of interpreting the Constitution the Supreme Court has the awesome power to strike down laws enacted by our elected representatives Why does the public accept the Court s decisions as legitimate and follow them even when those decisions are highly unpopular What must the Court do to maintain the public s faith How can it help make our democracy work In this groundbreaking book Justice Stephen Breyer tackles these questions and more offering an original approach to interpreting the Constitution that judges lawyers and scholars will look to for many years to come

Active Liberty Stephen Breyer, 2007-12-18 A brilliant new approach to the Constitution and courts of the United States by Supreme Court Justice Stephen Breyer For Justice Breyer the Constitution s primary role is to preserve and encourage what he calls active liberty citizen participation in shaping government and its laws As this book argues promoting active liberty requires judicial modesty and deference to Congress it also means recognizing the changing needs and demands of the populace Indeed the Constitution s lasting brilliance is that its principles may be adapted to cope with unanticipated situations and Breyer makes a powerful case against treating it as a static guide intended for a world that is dead and gone Using contemporary examples from federalism to privacy to affirmative action this is a vital contribution to the ongoing debate over the role and power of our courts

Values in the Supreme Court Rachel Cahill-O'Callaghan, 2020-02-20 This book examines the significance of values in Supreme Court decision making Drawing on theories and techniques from psychology it focuses on the content analysis of judgments and uses a novel methodology to reveal the values that underpin decision making The book centres on cases which divide judicial opinion Dworkin s hard cases in which the result is not clearly dictated by statute or precedent In hard cases there is real uncertainty about the legal rules that should be applied and factors beyond traditional legal sources may influence the decision making process It is in these uncertain cases where legal developments can rest on a single judicial decision that values are revealed in the judgments The findings in this book have significant implications for developments in law judicial decision making and the appointment of the judiciary

The Bill of Obligations Richard Haass, 2023-01-24 Watch the PBS companion documentary A Citizen s Guide to Preserving Democracy An indispensable guide to good citizenship in an era of division and rancor Anne Applebaum There is no question that the United States faces dangerous threats from without the greatest peril to the country however comes from within In *The Bill of Obligations* bestselling author Richard Haass argues that to solve our climate of division and safeguard our democracy the very idea of citizenship must be revised and expanded The Bill of Rights is at the center of our Constitution yet the most intractable conflicts often emerge from cases that as former Supreme Court Justice Stephen Breyer pointed out are not about right versus wrong They are about right versus right There is a way forward to place obligations on the same footing as rights The ten obligations that Haass introduces here reenvision what it means to be an American citizen to commit to our fellow citizens and counter the

growing apathy anger and violence that threaten us all Through an expert blend of civics history and political analysis this book illuminates how Americans across the political spectrum can rediscover how to contribute to and reshape this country's future *University of Chicago Law Review: Volume 81, Number 3 - Summer 2014* University of Chicago Law Review, 2014-09-19 The third issue of 2014 features three articles from recognized legal scholars as well as extensive student research Contents include Articles Following Lower Court Precedent by Aaron Andrew P Bruhl Constitutional Outliers by Justin Driver Intellectual Property versus Prizes Reframing the Debate by Benjamin N Roin Review The Text the Whole Text and Nothing but the Text So Help Me God Un Writing Amar's Unwritten Constitution by Michael Stokes Paulsen Comments Standing on Ceremony Can Lead Plaintiffs Claim Injury from Securities That They Did Not Purchase by Corey K Brady FISA's Fuzzy Line between Domestic and International Terrorism by Nick Harper The Perceived Intrusiveness of Searching Electronic Devices at the Border An Empirical Study by Matthew B Kugler Comcast Corp v Behrend and Chaos on the Ground by Alex Parkinson Maybe Once Maybe Twice Using the Rule of Lenity to Determine Whether 18 USC 924 c Defines One Crime or Two by F Italia Patti Let's Be Reasonable Controlling Self Help Discovery in False Claims Act Suits by Stephen M Payne A Dispute Over Bona Fide Disputes in Involuntary Bankruptcy Proceedings by Steven J Winkelman The University of Chicago Law Review first appeared in 1933 thirty one years after the Law School offered its first classes Since then the Law Review has continued to serve as a forum for the expression of ideas of leading professors judges and practitioners as well as students and as a training ground for University of Chicago Law School students who serve as its editors and contribute Comments and other research Principal articles and essays are authored by accomplished legal and economics scholars Quality ebook formatting includes active TOC linked notes active URLs in notes and all the charts tables and formulae found in the original print version Proportionality Vicki C. Jackson, Mark Tushnet, 2017-09-21 With contributions from leading scholars in constitutional law this volume examines how carefully designed and limited doctrines of proportionality can improve judicial decision making how it is applied in different jurisdictions its role on constitutionalism outside the courts and whether the principle of proportionality actually advances or detracts from democracy Contributions from some of the seminal thinkers on the development of scholarship on proportionality e.g. Alexy Barak and Beatty extend their prior work and engage in an important dialogue on the topic Some offer substantial critiques others defend the doctrine and offer important clarifications and extensions of their prior work Throughout the authors engage not only with case law from around the world but also with existing scholarly treatments of the subject Mathematical treatments are avoided making the book accessible to readers from both soft and hard social science backgrounds **Creating the Law** Michael K. Romano, Todd A. Curry, 2019-08-30 Written opinions are the primary means by which judges communicate with external actors These sentiments include the parties to the case itself but also more broadly journalists public officials lawyers other judges and increasingly the mass public In *Creating the Law* Michael K Romano and Todd A Curry examine the extent to

which judges tailor their language in order to avoid retribution during their retention and how institutional variations involving intra chamber dynamics may influence the written word of a legal opinion Using an extensive dataset that includes the text of all death penalty and education decisions issued by state supreme courts from 1995 2010 Romano and Curry are the first to examine the connection between retention incentives and language choices They utilize text analysis techniques developed in the field of communications and apply them to the text of judicial decisions In doing so they find that judges write with their audience in mind and emphasize duelling strategies of justification and persuasion in order to please diverse audiences that may be paying attention Furthermore the process of drafting a majority opinion is a team exercise and when more individuals are involved in its crafting the product will reflect this complexity This book gives students the tools for understanding how institutional variation affects judicial outcomes and shows how language relates to decision making in the judiciary more specifically

Judging Statutes Robert A. Katzmann, 2014-08-14 In an ideal world the laws of Congress known as federal statutes would always be clearly worded and easily understood by the judges tasked with interpreting them But many laws feature ambiguous or even contradictory wording How then should judges divine their meaning Should they stick only to the text To what degree if any should they consult aids beyond the statutes themselves Are the purposes of lawmakers in writing law relevant Some judges such as Supreme Court Justice Antonin Scalia believe courts should look to the language of the statute and virtually nothing else Chief Judge Robert A Katzmann of the U S Court of Appeals for the Second Circuit respectfully disagrees In Judging Statutes Katzmann who is a trained political scientist as well as a judge argues that our constitutional system charges Congress with enacting laws therefore how Congress makes its purposes known through both the laws themselves and reliable accompanying materials should be respected He looks at how the American government works including how laws come to be and how various agencies construe legislation He then explains the judicial process of interpreting and applying these laws through the demonstration of two interpretative approaches purposivism focusing on the purpose of a law and textualism focusing solely on the text of the written law Katzmann draws from his experience to show how this process plays out in the real world and concludes with some suggestions to promote understanding between the courts and Congress When courts interpret the laws of Congress they should be mindful of how Congress actually functions how lawmakers signal the meaning of statutes and what those legislators expect of courts construing their laws The legislative record behind a law is in truth part of its foundation and therefore merits consideration

The U.S. Supreme Court Linda Greenhouse, 2020-05-29 For 30 years Pulitzer Prize winning journalist Linda Greenhouse chronicled the activities of the U S Supreme Court and its justices as a correspondent for the New York Times In this Very Short Introduction she draws on her deep knowledge of the court s history and of its written and unwritten rules to show readers how the Supreme Court really works Greenhouse offers a fascinating institutional biography of a place and its people men and women who exercise great power but whose names and faces are unrecognized by many Americans and

whose work often appears cloaked in mystery How do cases get to the Supreme Court How do the justices go about deciding them What special role does the chief justice play What do the law clerks do How does the court relate to the other branches of government Greenhouse answers these questions by depicting the justices as they confront deep constitutional issues or wrestle with the meaning of confusing federal statutes Throughout the author examines many individual Supreme Court cases to illustrate points under discussion ranging from Marbury v Madison the seminal case which established judicial review to the recent District of Columbia v Heller 2008 which struck down the District of Columbia s gun control statute and which was surprisingly the first time in its history that the Court issued an authoritative interpretation of the Second Amendment To add perspective Greenhouse also compares the Court to foreign courts revealing interesting differences For instance no other country in the world has chosen to bestow life tenure on its judges The second edition of Greenhouse s Very Short Introduction tracks the changes in the Court s makeup over the last eight years considers the landmark decisions of the Obama and Trump eras and reexamines the precarious fates of such precedents as Roe v Wade A superb overview packed with telling details this volume offers a matchless introduction to one of the pillars of American government

The Dynamics of Political Communication Richard M. Perloff, 2017-10-19 What impact do news and political advertising have on us How do candidates use media to persuade us as voters Are we informed adequately about political issues Do twenty first century political communications measure up to democratic ideals The Dynamics of Political Communication Media and Politics in a Digital Age Second Edition explores these issues and guides us through current political communication theories and beliefs by detailing the fluid landscape of political communication and offering us an engaging introduction to the field and a thorough tour of the discipline Author Richard Perloff examines essential concepts in this arena such as agenda setting agenda building framing political socialization and issues of bias that are part of campaign news Designed to provide an understanding and appreciation of the principles involved in political communication along with methods of research and hypothesis testing each chapter includes materials that challenge us by encouraging reflection on controversial matters Inside this Second Edition you ll find Expanded discussion of conceptual problems communication complexities and key issues in the field New examples concepts and studies reflecting current political communication scholarship The integration of technology throughout the text reflecting its pervasive role in the political spectrum Accompanied by an updated companion website with resources for students and instructors The Dynamics of Political Communication prepares you to survey the political landscape with a more critical eye and encourages a greater understanding of the challenges and occurrences presented in this constantly evolving field

Reading the Constitution Stephen Breyer, 2025-06-10 A provocative brilliant analysis by retired Supreme Court Justice Stephen Breyer of the textualist philosophy of the current Supreme Court s supermajority

The Authority of the Court and the Peril of Politics Stephen Breyer, 2021-09-14 A sitting justice reflects upon the authority of the Supreme Court how that authority was gained and how measures to

restructure the Court could undermine both the Court and the constitutional system of checks and balances that depends on it. A growing chorus of officials and commentators argues that the Supreme Court has become too political. On this view the confirmation process is just an exercise in partisan agenda setting and the jurists are no more than politicians in robes; their ostensibly neutral judicial philosophies are mere camouflage for conservative or liberal convictions. Stephen Breyer, drawing upon his experience as a Supreme Court justice, sounds a cautionary note. Mindful of the Court's history, he suggests that the judiciary's hard-won authority could be marred by reforms premised on the assumption of ideological bias. Having, as Hamilton observed, no influence over either the sword or the purse, the Court earned its authority by making decisions that have over time increased the public's trust. If public trust is now in decline, one part of the solution is to promote better understandings of how the judiciary actually works: how judges adhere to their oaths and how they try to avoid considerations of politics and popularity. Breyer warns that political intervention could itself further erode public trust. Without the public's trust, the Court would no longer be able to act as a check on the other branches of government or as a guarantor of the rule of law, risking serious harm to our constitutional system. *The Common Flaw* Thomas G. Moukawsher, 2023-09-25

The American lawsuit is riddled with needless complexity. This book proposes fifty changes that decide cases promptly, more on the facts than the law, more for the parties than the lawyers, more for the consequences to the people and the public and in words we can all understand. American Holy Days, Second Edition Boardman W. Kathan, 2023-11-30 Our national holidays have been trivialized by merchandising, consumerism, and long weekends. What do you know about the origins of the national holidays of the United States? Boardman Kathan presents the persons and events that each of our holy days commemorates. In so doing, he explores the shaping of American history and identity, revealing often misunderstood parts of our national story from a new approach. Each chapter looks at the many books and research written about the events commemorated by these holidays, showing their relevance for today. Kathan includes discussion of the spiritual or religious dimensions of these national observances, pointing out that although the United States was not founded as a Christian nation on biblical principles, people throughout American history have perceived a divine guidance or what George Washington called providential care. This book reflects back on the original meaning of these days and seeks to inspire renewed forms of celebration, commemoration, and observance. Celebrating patriotic holidays can bring us together as a people, especially in times of stress and conflict. Schools, religious institutions, patriotic organizations, readers interested in history, in short, the general public will find this an enjoyable aid for recalling our history, reclaiming our values and traditions, and restoring a sense of community.

Supreme Court Economic Review, Volume 22 Michael S. Greve, Thomas W. Hazlett, Todd J. Zywicki, 2015-06-21 Supreme Court Economic Review is an interdisciplinary journal that seeks to provide a forum for scholarship in law and economics, public choice, and constitutional political economy. Its approach is broad-ranging, and contributions employ explicit or implicit economic reasoning for the analysis of legal issues, with special attention to Supreme Court decisions, judicial process, and

institutional design **Evolutionary Interpretation and International Law** Georges Abi-Saab, Kenneth Keith, Gabrielle Marceau, Clément Marquet, 2019-09-05 This unique book brings together leading experts from diverse areas of public international law to offer a comprehensive overview of the approaches to evolutionary interpretation in different international legal regimes It begins by asking what interpretation is offering the views of expert authors on the question its components and definitions It then comments on situations that have called for evolutionary interpretation in different international legal regimes including general international law environmental law human rights law EU law investment law international trade law and how domestic courts have on occasions interpreted treaties and other international legal instruments in an evolutionary manner This timely authoritative compendium offers an in depth understanding of the processes at work in evolutionary interpretation as well as a prime selection of the current trends and future challenges

The Conservative Sensibility George F. Will, 2019-06-04 The Pulitzer Prize winning columnist s astonishing and enthralling New York Times bestseller and Notable Book about how the Founders belief in natural rights created a great American political tradition Booklist easily one of the best books on American Conservatism ever written Jonah Goldberg For more than four decades George F Will has attempted to discern the principles of the Western political tradition and apply them to America s civic life Today the stakes could hardly be higher Vital questions about the nature of man of rights of equality of majority rule are bubbling just beneath the surface of daily events in America The Founders vision articulated first in the Declaration of Independence and carried out in the Constitution gave the new republic a framework for government unique in world history Their beliefs in natural rights limited government religious freedom and in human virtue and dignity ushered in two centuries of American prosperity Now as Will shows conservatism is under threat both from progressives and elements inside the Republican Party America has become an administrative state while destructive trends have overtaken family life and higher education Semi autonomous executive agencies wield essentially unaccountable power Congress has failed in its duty to exercise its legislative powers And the executive branch has slipped the Constitution s leash In the intellectual battle between the vision of Founding Fathers like James Madison who advanced the notion of natural rights that pre exist government and the progressivism advanced by Woodrow Wilson the Founders have been losing It s time to reverse America s political fortunes Expansive intellectually thrilling and written with the erudite wit that has made Will beloved by millions of readers The Conservative Sensibility is an extraordinary new book from one of America s most celebrated political writers *Henry Friendly, Greatest Judge of His Era* David M. Dorsen, 2012-04-10 Henry Friendly is frequently grouped with Oliver Wendell Holmes Louis Brandeis Benjamin Cardozo and Learned Hand as the best American jurists of the twentieth century In this first comprehensive biography of Friendly Dorsen opens a unique window onto how a judge of this caliber thinks and decides cases and how Friendly lived his life **The Conservative Revolution of Antonin Scalia** Howard Schweber, David A Schultz, 2020-07-07 Many hoped or feared that Antonin Scalia s appointment to the Supreme Court in

1986 would guarantee a conservative counter revolution that would reverse the liberal jurisprudence of the Supreme Court under Chief Justice Earl Warren and which was continued to some extent under the Burger Court though the influence of Justice William Brennan In addition President Reagan described Scalia s nomination as part of a project to remake the role of the Court promote an interpretive approach of originalism and shift authority and discretion to the States Yet by the time of his death in 2016 it was unclear to what extent Scalia had effected the legal institutional or political revolutions that had been anticipated While the Court did move to the right doctrinally and reversed or modified many Vinson Warren Burger precedents Scalia s influence on constitutional jurisprudence turned out to be far less than it could have been and his ability to persuade other Justices to adopt his legal views both substantively and methodologically was less than many mainstream media accounts recognize Scalia s institutional and political legacies are similarly complex he was neither as transformative a figure as some of his allies might have hoped nor so unimportant as some of his detractors might have wished The fact that his death and the controversy surrounding his replacement is so intense speaks to the fragile legacy that Scalia really has had on the Supreme Court after 30 years This book will assess Scalia s legacy in an edited volume that assembles leading legal and political science scholars who will evaluate his impact across a range of jurisprudential institutional and political issues

Ethics and Accountability on the US Supreme Court Robert J. Hume, 2017-11-21 Do US Supreme Court justices withdraw from cases when they are supposed to What happens when the Court is down a member In *Ethics and Accountability on the US Supreme Court* Robert J Hume provides the first comprehensive examination of the causes and consequences of recusal behavior on the Supreme Court Using original data and with rich attention to historical detail including media commentary about recusals he systematically analyzes the factors that influence Supreme Court recusal a process which has so far been shrouded in secrecy It is revealed that justices do not strictly follow the recusal guidelines set by Congress but at the same time they do not ignore these rules Overall justices are selective in their compliance with the recusal statute balancing ethical considerations against other institutional and policy goals such as the duty to sit However the book also concludes that the impact of recusals on policymaking is more limited than commentators have claimed raising questions about whether ethics reform is really needed at this time

This book delves into Making Our Democracy Work A Judges View. Making Our Democracy Work A Judges View is an essential topic that needs to be grasped by everyone, from students and scholars to the general public. This book will furnish comprehensive and in-depth insights into Making Our Democracy Work A Judges View, encompassing both the fundamentals and more intricate discussions.

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 - Chapter 1: Introduction to Making Our Democracy Work A Judges View
 - Chapter 2: Essential Elements of Making Our Democracy Work A Judges View
 - Chapter 3: Making Our Democracy Work A Judges View in Everyday Life
 - Chapter 4: Making Our Democracy Work A Judges View in Specific Contexts
 - Chapter 5: Conclusion
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- The book is crafted in an easy-to-understand language and is complemented by engaging illustrations. It is highly recommended for anyone seeking to gain a comprehensive understanding of Making Our Democracy Work A Judges View.

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