

A COMMON LAW THEORY OF JUDICIAL REVIEW

UNDERSTANDING COMMON LAW THEORY:

EVOLUTION OF LAWS

W. J. WALUCHOW

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Roger Masterman, Colin Murray



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Bentham and the Common Law Tradition Gerald J. Postema, 2019 Presentation de l'auteur This second edition of a classic in Anglo American legal philosophy reopens the dialogue between Bentham's work and contemporary legal philosophy Gerald J Postema revisits the themes of the first edition in light of the latest scholarly criticism and provides new insights into the historical philosophical roots of international law

The Spirit of the Common Law Roscoe Pound, 2018-04-24 The Spirit of the Common Law is one of Roscoe Pound's most notable works It contains the brilliant lectures he delivered at Dartmouth College in the summer of 1921 It is a seminal book embodying the spiritual essence of sociological jurisprudence by its leading prophet This work is both a celebration of the common law and a warning for common law judges and lawyers to return to and embrace the pragmatism and judicial empiricism that define and energize the common law The two fundamental doctrines of the common law Pound writes are the doctrine of precedents and the doctrine of supremacy of law In an earlier preface Justice Arthur J Goldberg writes that The Spirit of the Common Law will always be treasured by judges and lawyers for its philosophy and history but more importantly for Roscoe Pound's optimism and faith in the capacity of law to keep up with the times without sacrificing fundamental values It is a faith built upon the conviction that the present is not to be divorced from the past but rather that the past and the present are to be built upon to make a better future Neil Hamilton and Mathias Alfred Jaren provide a biographical introduction to the book They discuss the various influences upon Pound's scholarly pursuits and they analyze many of his writings that led up to The Spirit of the Common Law This volume is a necessary addition to the libraries of legal scholars and professionals sociologists and philosophers

Common Law and Liberal Theory James R. Stoner, 1992 In this book James Stoner's purpose is to recover the common law basis of American constitutionalism American constitutionalism in general he argues and judicial review in particular cannot be fully understood without acknowledging their roots in both common law and liberal political theory But for the most part the common law underpinnings of constitutionalism have received short shrift

French Administrative Law and the Common-law World Bernard Schwartz, 2006 Schwartz provides a masterly exposition of administrative law through a comparative study of the French droit administratif arguably the most sophisticated Continental model As Vanderbilt points out in his introduction this is an important field that involves much more than administrative procedure It deals directly with some of the most crucial issues of modern government regarding the distribution of power between governmental units the resulting effect on the freedom of the individual and on the strength and stability of the state Reprint of the sole edition This book represents a significant achievement Unlike so many volumes that roll off the press these days it fills a real need and though perhaps not the definitive work in English on the subject it fills it extremely well Frederic S Burin Columbia Law Review 54 1954 1016 Bernard Schwartz 1923 1997 was professor of law and director of the Institute of Comparative Law New York University He was the author of over fifty books including The Code Napoleon and the Common Law World 1956

the five volume Commentary on the Constitution of the United States 1963 68 Constitutional Law A Textbook 2d ed 1979 Administrative Law A Casebook 4th ed 1994 and A History of the Supreme Court 1993 Bills of Rights in the Common Law Robert Leckey, 2015-05-05 Scholars have addressed at length the what of judicial review under a bill of rights scrutinizing legislation and striking it down but neglected the how Adopting an internal legal perspective Robert Leckey addresses that gap by reporting on the processes and activities of judges of the highest courts of Canada South Africa and the United Kingdom as they apply their relatively new bills of rights Rejecting the tendency to view rights adjudication as novel and unique he connects it to the tradition of judging and judicial review in the Commonwealth and identifies respects in which judges activities in rights cases genuinely are novel and problematic Highlighting inventiveness in rights adjudication including creative remedies and guidance to legislative drafters he challenges classifications of review as strong or weak Disputing claims that it is modest and dialogic he also argues that remedial discretion denies justice to individuals and undermines constitutional supremacy *Law after Modernity* Sionaidh Douglas-Scott, 2013-04-30 How can we characterise law and legal theory in the twenty first century Law After Modernity argues that we live in an age after Modernity and that legal theory must take account of this fact The book presents a dynamic analysis of law which focusses on the richness and pluralism of law on its historical embeddedness its cultural contingencies as well as acknowledging contemporary law s global and transnational dimensions However Law After Modernity also warns that the complexity fragmentation pluralism and globalisation of contemporary law may all too easily perpetuate injustice In this respect the book departs from many postmodern and pluralist accounts of law Indeed it asserts that the quest for justice becomes a crucial issue for law in the era of legal pluralism and it investigates how it may be achieved The approach is fresh contextual and interdisciplinary and unusually for a legal theory work is illustrated throughout with works of art and visual representations which serve to re enforce the messages of the book **Constitutional and Administrative Law** Roger Masterman, Colin Murray, 2022-06-02 Using numerous topical examples and a clear structure this third edition textbook provides an accessible discursive and scholarly treatment of the key contemporary issues in UK public law Drawing upon their extensive teaching and research experience Roger Masterman and Colin Murray offer an engaging account of the key topics which make up a constitutional and administrative or public law syllabus Controversial issues and broader debates are highlighted throughout the text allowing the reader to develop a strong understanding of both the application of key topics in the field and the socio political context in which the constitution has developed This fully revised edition includes detailed analysis of recent significant cases the constitutional implications of the Covid 19 pandemic and a dedicated chapter on the consequences of Brexit

Researching Public Law in Common Law Systems Paul Daly, Joe Tomlinson, 2023-09-06 This original book fills a significant gap in legal literature by providing an exploration of research methodologies in public law a field of research in which research methods are becoming increasingly prominent and sophisticated Featuring thoughtful chapters written by

leading scholars in the field this book provides a thorough explanation of the key features characteristics and challenges of distinct methodological approaches to public law research

Statutory and Common Law Interpretation Kent Greenawalt, 2013 Kent Greenawalt's second volume on aspects of legal interpretation analyzes statutory and common law interpretation suggesting that multiple factors are important for each and that the relation between them influences both The book argues against any simple textualism claiming that even reader understanding of statutes depends partly on perceived intent In respect to common law interpretation use of reasoning by analogy is defended and any simple dichotomy of holding and dictum is resisted

Common Law - Civil Law Nicoletta Bersier, Christoph Bezemek, Frederick Schauer, 2022-01-01 This book offers an in depth analysis of the differences between common law and civil law systems from various theoretical perspectives Written by a global network of experts it explores the topic against the background of a variety of legal traditions Common law and civil law are typically presented as antagonistic players on a field claimed by diverse legal systems the former being based on precedent set by judges in deciding cases before them the latter being founded on a set of rules intended to govern the decisions of those applying them Perceived in this manner common law and civil law differ in terms of the main source s of law who is to create them who is merely to draw from them and whether the law itself is pure each step of the way or whether the law's purity may be tarnished when confronted with a set of contingent facts These differences have deep roots in legal history roots that allow us to trace them back to distinct traditions Nevertheless it is questionable whether the divide thus depicted is as great as it may seem international and supranational legal systems unconcerned by national peculiarities appear to level the playing field A normative understanding of constitutions seems to grant ever greater authority to High Court decisions based on thinly worded maxims in countries that adhere to the civil law tradition The challenges contemporary regulation faces call for ever more detailed statutes governing the decisions of judges in the common law tradition These and similar observations demand a structural reassessment of the role of judges the power of precedent the limits of legislation and other features often thought to be so different in common and civil law systems The book addresses this reassessment

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