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The Lochner Court, Myth and Reality - Michael J. Phillips - 2001
Examining the Supreme Court's 1897-1937 substantive due process cases, Phillips attacks long-held beliefs about the so-called Lochner Court.

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Looking for Rights in All the Wrong Places - Emily Zackin - 2013-04-21
Unlike many national constitutions, which contain explicit positive rights to such things as education, a living wage, and a healthful environment, the U.S. Bill of Rights appears to contain only a long list of prohibitions on government. American constitutional rights, we are often told, protect people only from an overbearing government, but give no explicit guarantees of governmental help. Looking for Rights in All the Wrong Places argues that we have fundamentally misunderstood the American rights tradition. The United States actually has a long history of enshrining positive rights in its constitutional law, but these rights have been overlooked simply because they are not in the federal Constitution. Emily Zackin shows how they instead have been included in America's state constitutions, in large part because state governments, not the federal government, have long been primarily responsible for crafting American social policy. Although state constitutions, seemingly mired in trivial detail, can look like pale imitations of their federal counterpart, they have been sites of serious debate, reflect national concerns, and enshrine choices about fundamental values. Zackin looks in depth at the history of education, labor, and environmental reform, explaining why America's activists targeted state constitutions in their struggles for government protection from the hazards of life under capitalism. Shedding much-needed light on the variety of reasons that activists pursued the creation of new state-level rights, Looking for Rights in All the Wrong Places challenges us to rethink our most basic assumptions about the American constitutional tradition.

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Rehabilitating Lochner - David E. Bernstein - 2011-05-15
In this timely reevaluation of an infamous Supreme Court decision, David E. Bernstein provides a compelling survey of the history and background of Lochner v. New York. This 1905 decision invalidated state laws limiting work hours and became the leading case contending that novel economic regulations were unconstitutional. Sure to be controversial, Rehabilitating Lochner argues not only that the court acted reasonably in Lochner, but that Lochner and like-minded cases have been widely misunderstood and unfairly maligned ever since.

Liberty of Contract - David N. Mayer - 2011-01-16
Examines the history of the liberty of contract and shows how this right has been continuously diminished by court decisions and by our country's growing regulatory and welfare state.

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Liberalism and Capitalism: Volume 28 - Ellen Frankel Paul - 2011-08-08
What are the core values of liberalism, and how can they best be promoted? Liberals in the classical tradition championed individual freedom, limited government, and a capitalist economic system with strong rights to private property. Contemporary liberals, in contrast, embrace more egalitarian values and allow for a far more prominent role for government intervention in the market to reduce inequality, redistribute wealth, and regulate economic activity. What accounts for these very disparate liberal views of property rights and economic freedom? How should we understand the transition from the classical view of liberalism to its more egalitarian modern version? And what, ideally, should the relationship be between the central values of liberalism and the economic institutions of capitalism? The eleven essays in this volume address these questions and examine related issues.

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Supreme Court, The - Paul Finkelman - 2014-01-15
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**Supreme Court, The** - Paul Finkelman - 2014-01-15

“An insightful, essential chronological examination of the Supreme Court that enables readers to understand and appreciate the constitutional role the Court plays in American government and society—

**Law and the Invisible Hand** - Robin Paul Malloy - 2021-09-30

Introduction: law’s invisible hands -- Setting the stage -- Social organization in the informal realm -- Social organization in the formal realm -- Integrating the informal and formal in Smith’s theory -- The spectator view -- Judgment and justice -- The sentiment of common interest -- The impartial spectator, homo-economicus, and homo-identitas -- Understanding the four stages of progress -- Adam Smith in American law -- Parting thoughts.

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**Making Minimum Wage** - Helen J. Knowles - 2021-08-05

The US Supreme Court’s 1937 decision in West Coast Hotel v. Parrish, upholding the constitutionality of Washington State’s minimum wage law for women, had momentous consequences for female workers. It also marked a major shift in the Court’s response to President Franklin D. Roosevelt’s New Deal agenda. In Making Minimum Wage, Helen J. Knowles tells the human story behind this historic case. West Coast Hotel v. Parrish pitted a Washington State hotel against a chambermaid, Elsie Parrish, who claimed that she owed the state’s minimum wage. The hotel argued that under the concept of “freedom of contract,” the US Constitution allowed it to pay its female workers whatever low wages they were willing to accept. Knowles unpacks the legal complexities of the case while telling the litigants’ stories. Drawing on archival and private materials, including the unpublished memoir of Elsie’s lawyer, C. B. Conner, Knowles exposes the profound courage and resolve of the former chambermaid. Her book reveals why Elsie—who, in her mid-thirties was already a grandmother—was fired from her job at the Cascadian Hotel in Wenatchee, and why she undertook the outsized risk of suing the hotel for back wages. Minimum wage laws are “not an academic question or even a legal one,” Elinore Morehouse Herrick, the New York director of the National Labor Relations Board, said in 1936. Rather, they are “a human problem.” A pioneering analysis that illuminates the life stories behind West Coast Hotel v. Parrish as well as the case’s impact on local, state, and national levels, Making Minimum Wage vividly demonstrates the fundamental truth of Morehouse Herrick’s statement.

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Originally published in 2006, the Encyclopedia of American Civil Liberties, is a comprehensive 3 volume set covering a broad range of topics in the numerous different areas including freedom of speech, press, religion, assembly and petition. The Encyclopedia also addresses areas such as the Constitution, the Bill of Rights, slavery, censorship, crime and war. The book’s multidisciplinary approach will make it an ideal library reference resource for lawyers, scholars and students.


Originally published in 2006, the Encyclopedia of American Civil Liberties, is a comprehensive 3 volume set covering a broad range of topics in the numerous different areas including freedom of speech, press, religion,
of workers in the United States find themselves excluded from the category of employees—a crucial distinction that would otherwise permit unionization and collective bargaining. Tracing the history of the term since its entry into the public lexicon in the nineteenth century, Jean-Christian Vinel demonstrates that the legal definition of "employee" has always been politically contested and deeply affected by competing claims on the part of business and labor. Unique in the Western world, American labor law is premised on the notion that "no man can serve two masters"—workers owe loyalty to their employer, which in many cases is incompatible with union membership. The Employee: A Political History historicizes this American exception to international standards of rights and liberties at work, revealing a little known part of the business struggle against the New Deal. Early on, progressives and liberals developed a labor regime that, intending to restore amicable relations between employer and employee, sought to include as many workers as possible in the latter category. But in the 1940s this language of social harmony met with increasing resistance from businessmen, who pressed their interests in Congress and the federal courts, pushing for an ever-narrower definition of "employee" that excluded groups such as foremen, supervisors, and knowledge workers. A cultural and political history of American business and law, The Employee sheds historical light on contemporary struggles for economic democracy and political power in the workplace.

The Company They Keep - Neal Devins - 2019-01-07
Are Supreme Court justices swayed by the political environment that surrounds them? Most people think "yes," and they point to the influence of the general public and the other branches of government on the Court. It is not that simple, however. As the eminent law and politics scholars Neal Devins and Lawrence Baum show in The Company They Keep, justices today are reacting far more to subtle social forces in their own elite legal world than to pressure from the other branches of government or mass public opinion. In particular, the authors draw from social psychology research to show why Justices are apt to follow the lead of the elite social networks that they are a part of. The evidence is strong: Justices take cues primarily from the people who are closest to them and whose approval they care most about: political, social, and professional elites. In an era of strong partisan polarization, elite social networks are largely bifurcated by partisan and ideological loyalties, and the Justices reflect that division. The result is a Court in which the Justices' ideological stances reflect the dominant views in the appointing president's party. Justices such as Clarence Thomas and Ruth Bader Ginsburg live largely in a milieu populated by like-minded elites. Today's partisanship on the Court also stems from the emergence of conservative legal networks such as the Federalist Society, that reinforce the conservative leanings of Republican appointees. For the Warren and Burger Courts, elite social networks were dominated by liberal elites and not divided by political party or ideology. A fascinating examination of the factors that shape decision-making, The Company They Keep will reshape our understanding of how political polarization occurs on the contemporary Supreme Court.

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Strategies for Environmental Success in an Uncertain Judicial Climate - Michael Allan Wolf - 2005
Over the last 30 years, we have made great progress in curbing the most obvious pollution largely due to effective enforcement of federal and state laws.
liberty, and autonomy, then determining what these require in concrete circumstances. This book shows that courts were not designed for this kind of moral and empirical reasoning. It argues that in comparison to legislatures, the institutional capacities of courts are deficient. Legislatures are better equipped than courts for deliberating and decision-making in regard to the kinds of factual and moral issues that arise in constitutional rights cases. The book concludes by considering the implications of comparative institutional capacity for constitutional design. Is a system of judicial review of legislation and a system of constitutional framers should choose to adopt? If so, in what form? For countries with systems of judicial review, practical proposals are made to remedy deficiencies in the institutional capacities of courts.

The Opening of American Law - Herbert Hovenkamp - 2014
Two late Victorian ideas disrupted American legal thought: the Darwinian theory of evolution and marginalist economics. The legal thought that emerged can be called ‘neoclassical’, because it embodied ideas that were radically new while retaining many elements of what had gone before. Although Darwinian social science was developed earlier, in most legal disciplines outside of criminal law and race theory marginalist approaches came to dominate. This book carries these themes through a variety of legal subjects in both public and private law.

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The Blessings of Liberty - Michael Les Benedict - 2016-09-30
This concise, accessible text provides students with a history of American constitutional development in the context of political, economic, and social change. Constitutional historian Michael Benedict stresses the role that the American people have played over time in defining the powers of government and the rights of individuals and minorities. He covers important trends and events in U.S. constitutional history, encompassing key Supreme Court and lower-court cases. The volume begins by discussing the English and colonial origins of American constitutionalism. Following an analysis of the American Revolution’s meaning to constitutional history, the text traces the Constitution’s evolution from the Early Republic to the present day. This third edition is updated to include the election of 2000, the Tea Party and the rise of popular constitutionalism, and the rise of judicial supremacy as seen in cases such as Citizens United, the Affordable Care Act, and gay marriage.

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The Progressives’ Century - Stephen Skowronek - 2016-01-01

The Progressives’ Century - Stephen Skowronek - 2016-01-01

Reasoning Rights - Liora Lazarus - 2014-12-01
This book is about judicial reasoning in human rights cases. The aim is to explore the question: how is it that notionally universal norms are reasoned
anyone interested in the impact of the Court’s decisions on American society.

The Supreme Court has continued to write constitutional history over the thirteen years since publication of the highly acclaimed first edition of The Oxford Companion to the Supreme Court. Two new justices have joined the high court, more than 800 cases have been decided, and a good deal of new scholarship has appeared on many of the topics treated in the Companion. Chief Justice William H. Rehnquist presided over the impeachment trial of President Bill Clinton, and the Court as a whole played a decisive and controversial role in the outcome of the 2000 presidential election. Under Rehnquist’s leadership, a bare majority of the justices have rewritten significant areas of the law dealing with federalism, sovereign immunity, and the commerce power. This new edition includes new entries on key cases and fully updated treatment of crucial areas of constitutional law, such as abortion, freedom of religion, school desegregation, freedom of speech, voting rights, military tribunals, and the rights of the accused. These developments make the second edition of this accessible and authoritative guide essential for judges, lawyers, academics, journalists, and anyone interested in the impact of the Court’s decisions on American society.

The Oxford Companion to the Supreme Court of the United States - Kermit L. Hall - 2005-05-19


The Supreme Court of the United States - John J. Patrick - 2006-08-03

The second edition of this authoritative guide on the impact of the Supreme Court’s decisions on American society includes updated entries on key cases over the past thirteen years, as well as a fully revised treatment of areas of constitutional law.

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Landmark Supreme Court Cases - Gary R. Hartman - 2009-01-01

Through its interpretations of the Constitution and Bill of Rights

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Through its interpretations of the Constitution and Bill of Rights

The Bill of Rights in Modern America - David J. Bodenhamer - 2022-04-05

A newly revised and updated version of the 2008 revised edition with updated introduction, four new chapters. The editors were encouraged to update this edition with issues of diversity in mind. They have done so by including the expertise of more women and people of color. Also includes suggestions for further reading.

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This completely revised and updated third edition to the Young Oxford Companion to the Supreme Court of the United States (1994) and The Supreme Court of the United States, second edition (2001) contains a complete, A-to-Z encyclopedia of the Supreme Court, its history, and current operations. This third edition includes new articles on six cases: American Library Association v. United States (2003), Bush v. Gore (2000), Grutter v. Bollinger (2003), Lawrence v. Texas (2003), Pierce v. Society of Sisters (1925), and Zelman v. Simmons-Harris (2002). Other new articles cover Fundamental rights doctrine, Intermediate scrutiny, Preferred freedoms doctrine, Strict scrutiny, and National security issues. There are updates to articles on all sitting justices, and new articles on the two newly appointed justices, Chief Justice John Roberts and Samuel Alito. The following 17 articles are updated with new examples and cases: Abortion, Affirmative action, Appointment of justices, Capital punishment, Due process of law,
The First Bilateral Investment Treaties - Kenneth J. Vandevelde - 2017-04-05

The First Bilateral Investment Treaties is the first and only history of the U.S. postwar Friendship, Commerce, and Navigation (FCN) treaty program, and focuses on the investment-related provisions of those treaties. The 22 U.S. postwar FCN treaties were the first bilateral investment treaties ever concluded, and nearly all of the core provisions in the modern network of more than 3000 international investment agreements worldwide trace their origin to these FCN treaties. This book explains the original understanding of the language of this vast network of agreements which have been and continue to be the subject of hundreds of international arbitrations and billions of dollars in claims. It is based on a review of some 32,000 pages of negotiating history housed in the National Archives. This book demonstrates that the investment provisions were founded on the New Deal liberalism of the Roosevelt-Truman administrations and were intended to acquire for U.S. companies investing abroad the same protections that foreign investors already received in the United States under the U.S. Constitution. It chronicles the failed U.S. attempt to obtain protection for investment through the proposed International Trade Organization (ITO), providing the first and only history of the ITO-related provisions in the ITO Charter. It then shows how the FCN treaties, which dated back to 1976 and originally concerned with establishing trade and maritime relations, were re-conceptualized as investment treaties to provide investment protection bilaterally. This book is also a work of diplomatic history, offering an account of the negotiating history of each of the 22 treaties and describing U.S. negotiating policy and strategy.

The Encyclopedia of the United States Constitution - David Andrew Schultz - 2009-01-01

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Oliver Wendell Holmes, Jr. - Susan-Mary Grant - 2015-07-24

Oliver Wendell Holmes, Jr., was one of the most influential jurists of his time. From the antebellum era and the Civil War through the First World War and into the New Deal years, Holmes' long life and career as a Supreme Court Justice spanned an eventful period of American history, as the country went from an agrarian republic to an industrialized world power. In this concise, engaging book, Susan-Mary Grant puts Holmes' life in national context, exploring how he both shaped and reflected his changing country. She examines the impact of the Civil War on his life and his thinking, his role in key cases ranging from the issue of free speech in Schenck v. United States to the infamous ruling in favor of eugenics in Buck v. Bell, showing how behind Holmes' reputation as a liberal justice lay a more complex approach to law that did not neatly align with political divisions. Including a selection of key primary documents, Oliver Wendell Holmes, Jr. introduces students of U.S., Civil War, and legal history to a game-changing figure and his times.

The Progressive Revolution - Ellis Washington - 2016-12-13

The Progressive Revolution (Volume V)—continues his legal, historical and literary series based on Natural Law, Natural Rights and the original political philosophy of the constitutional Framers and original jurisprudence of the U.S. Supreme Court.

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The Oxford Handbook of Economic and Institutional Transparency - Jens Fonsbæk - 2014-09-01

In recent years, the term 'transparency' has emerged as one of the most popular and keenly-touted concepts around. In the economic-political debate, the principle of transparency is often advocated as a prerequisite for accountability, legitimacy, policy efficiency, and good governance, as well as a universal remedy against corruption, corporate and political scandals, financial crises, and a host of other problems. But transparency is more than a mere catch-phrase. Increased transparency is a bearing ideal behind regulatory reform in many areas, including financial reporting and banking regulation. Individual governments as well as multilateral bodies have launched broad-based initiatives to enhance transparency in both economic and other policy domains. Parallel to these developments, the concept of transparency has seeped its way into academic research in a wide range of social science disciplines, including the economic sciences. This increased importance of transparency in economics and business studies has called for a reference work that surveys existing research on the concept of transparency and explores its meaning and significance in different areas. The Oxford Handbook of Economic and Institutional Transparency is such a reference. Comprised of authoritative yet accessible contributions by leading scholars, this Handbook addresses questions such as: What is transparency? What is the rationale for transparency? What are the determinants and the effects of transparency? And is transparency always beneficial, or can it also be detrimental (if so, when?)? The chapters are presented in three sections that correspond to three broad themes. The first section addresses transparency in different areas of economic policy. The second section covers institutional transparency and explores the role of transparency in market integration and regulation. Finally, the third section focuses on corporate transparency. Taken together, this volume offers an up-to-date account of existing work on and approaches to transparency in economic research, discusses open questions, and provides guidance for future research, all from a blend of disciplinary perspectives.

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The Failed Promise of Originalism - Frank Cross - 2013-01-09

Originalism is an enormously popular—and equally criticized—theory of constitutional interpretation. As Elena Kagan stated at her confirmation hearing, “We are all originalists.,” Scores of articles have been written on whether the Court should use originalism, and some have examined how the Court employed originalism in particular cases, but no one has studied the overall practice of originalism. The primary point of this book is an examination of the degree to which originalism influences the Court’s decisions. Frank B. Cross tests this by examining whether originalism appears to constrain the ideological preferences of the justices, which are a demonstrable predictor of their decisions. Ultimately, he finds that however theoretically appealing originalism may seem, the changed circumstances over time and lack of reliable evidence means that its use is indeterminate and meaningless. Originalism can be selectively deployed or manipulated to support and legitimate any decision desired by a justice.

The Failed Promise of Originalism - Frank Cross - 2013-01-09

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The Division of Competences between the EU and the Member States - Sacha Garben - 2017-10-05

The issue of competence division is of fundamental importance as it reflects the ‘power bargain’ struck between the Member States and their Union, determining the limits of the authority of the EU as well as the limits of the authority of the Member States. It defines the nature of the EU as a polity, determining the limits of the authority of the EU as well as the limits of the authority of the Member States. It defines the nature of the EU as a polity, as well as the identity of the Member States. After over six years since the entry into force of the Lisbon Treaty, it is high time to take stock of whether the reforms that were adopted to make the Union’s system of division of competences between the EU Member States clearer, more coherent, and more reliable mean that its use is indeterminate and meaningless. Originalism can be selectively deployed or manipulated to support and legitimate any decision desired by a justice.
competences between the EU Member States clearer, more coherent, and better at containing European integration, have been successful. This book asks whether ‘the competence problem’ has finally been solved. Given the fundamental importance of this question, this publication will be of interest to a wide audience, from constitutional and substantive EU law scholars to practitioners in the EU institutions and EU legal practice more generally.

The Powers of the U.S. Congress: Where Constitutional Authority Begins and Ends - Brien Hallett - 2016-10-03
Offering a unique resource for students, scholars, and citizens, this work fully explains all of the 21 enumerated powers of the U.S. Congress, from the "power of the purse" to the power to declare war. • Presents comprehensive coverage of all congressional powers through authoritative essays by recognized experts • Enables readers to connect the long-ago goals and perspectives of the Founding Fathers to current issues and controversies • Facilitates a fully contextualized understanding of the legislative power of Congress—and the extent and limitations of leverage that it can wield on domestic and foreign policy • Provides an accessible gateway to further, more detailed research of each of the individual congressional powers • Includes appendices containing the full texts of the Articles of Confederation and Perpetual Union and the Constitution of the United States

Corporations and American Democracy - Naomi R. Lamoreaux - 2017-05-08
Recent Supreme Court decisions in Citizens United and other high-profile cases have sparked disagreement about the role of corporations in American democracy. Bringing together scholars of history, law, and political science, Corporations and American Democracy provides essential grounding for today’s policy debates.

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Age of Betrayal - Jack Beatty - 2008
Capturing a world of social unrest and upheaval, a study of America's Gilded Age offers a fresh analysis of a post-Civil War era marked by corrupt politicians, racism, a tyranny of wealth, the power of the business world over the rights of workers, labor unrest, violence, and the corporate rule of government. Reprint. 12,500 first printing.

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