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Featured Acquisitions - Special Edition Fall 2009 Sibley Lecture

The Law Library presents this special edition of a selective Featured Aquisitions list featuring the works of Sibley lecturer Frederick Schauer.

University of Virginia Harrison Distinguished Professor of Law Frederick Schauer will deliver the University of Georgia School of Law's 105th Sibley Lecture. Schauer's lecture is titled "When and How (If at All) Does Law Constrain Official Action?" and will take place Wednesday, Oct. 28, at 4:30 p.m. in the Hatton Lovejoy Courtroom.



Thinking Like a Lawyer: A New Introduction to Legal Reasoning, Cambridge, Mass.: Harvard University Press, 2009

K212 .S325 2009 Balcony

This primer on legal reasoning is aimed at law students and upper-level undergraduates. But it is also an original exposition of basic legal concepts that scholars and lawyers will find stimulating. It covers such topics as rules, precedent, authority, analogical reasoning, the common law, statutory interpretation, legal realism, judicial opinions, legal facts, and burden of proof. In addressing the question whether legal reasoning is distinctive, Frederick Schauer emphasizes the formality and rule-dependence of law. When taking the words of a statute seriously, when following a rule even when it does not produce the best result, when treating the fact of a past decision as a reason for making the same decision again, or when relying on authoritative sources, the law embodies values other than simply that of making the best decision for the particular occasion or dispute. In thus pursuing goals of stability, predictability, and constraint on the idiosyncrasies of individual decision-makers, the law employs forms of reasoning that may not be unique to it but are far more dominant in legal decision-making than elsewhere. Schauerrsquo;s analysis of what makes legal reasoning special will be a valuable guide for students while also presenting a challenge to a wide range of current academic theories.



Profiles, Probabilities, and Stereotypes, Cambridge, Mass.: Harvard University Press/Belknap Press, 2003

HM1096 .S34 2003 Basement

This book employs a careful, rigorous, yet lively approach to the timely question of whether we can justly generalize about members of a group on the basis of statistical tendencies of that group. For instance, should a military academy exclude women because, on average, women are more sensitive to hazing than men? Should airlines force all pilots to retire at age sixty, even though most pilots at that age have excellent vision? Can all pit bulls be banned because of the aggressive characteristics of the breed? And most controversially, should government and law enforce ment use racial and ethnic profiling as a tool to fight crime and terrorism?

Playing by the Rules: A Philosophical Examination of Rule-Based Decision-Making in Law and in Life, Oxford, England: Clarendon Press; New York: Oxford University Press, 1991 K230.S315 P56 1991 Balcony

Rules are a central component of such diverse enterprises as law, morality, language, games, religion, etiquette, and family governance, but there is often confusion about what a rule is, and what rules do. Offering a comprehensive philosophical analysis of these questions, this book challenges much of the existing legal, jurisprudential, and philosophical literature, by seeing a significant role for rules, an equally significant role for their stricter operation, and making the case for rules as devices for the allocation of power among decision-makers.



The Philosophy of Law: Classic and Contemporary Readings with Commentary, (editor, with Walter Sinnott-Armstrong), New York: Oxford University Press, 1996 K 231 .P55 1996

Ideal for undergraduate courses in philosophy of law, this comprehensive anthology examines such topics as the concept of law, the dispute between natural law theorists and legal positivists, the relations between law and morality, criminal responsibility and legal punishment, the rights of the individual against the state, justice and equality, and legal evidence as compared with scientific evidence. The readings have been selected from both philosophy and law journals and include classic texts, contemporary theoretical developments, and well-known recent court cases. The textfeatures extensive introductions that make even the most profound writings accessible to undergraduates.

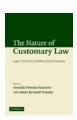
Law and Language (editor), New York, NY: New York University Press, 1993 K213 .L385 1993 Balcony

This Major Reference series brings together a wide range of key international articles in law and legal theory. Many of these essays are not readily accessible, and their presentation in these volumes will provide a vital new resource for both research and teaching. Each volume is edited by leading international authorities who explain the significance and context of articles in an informative and complete introduction.

"Paltering", in Deception: From Ancient Empires to Internet Dating, edited by Brooke Harrington, Stanford, CA: Stanford University Press, 2009
BF637.D42 D46 2009 Basement



Harrington (Max Planck Institute, Germany) compiles 15 essays by individuals from the humanities and sciences, including biologists, psychologists, sociologists, poets, computer scientists, and others based in the US who consider the art of deception in its many forms. They address defining and detecting deception, the role of technology, trust, and key social institutions through which deception is perpetrated. This includes discussion of routine forms of deception, online dating, financial markets, animals, lying and paltering, facial expression, doctoring of photos, hacking and phishing, rumor, the tradition of tricksters, and deception in ancient society, government, and the military. The volume began in a dialogue at the Santa Fe Institute. Annotation ©2009 Book News, Inc., Portland, OR (booknews.com)



"Pitfalls in the Interpretation of Customary Law," in The Nature of Customary Law, **edited by Amanda Perreau-Saussine and James Bernard Murphy**, Cambridge; New York: Cambridge University Press, 2007

K282 .N38 2007 Balcony

Some legal rules are not laid down by a legislator but grow instead from informal social practices. In contract law, for example, the customs of merchants are used by courts to interpret the provisions of business contracts; in tort law, customs of best practice are used by courts to define professional responsibility. Nowhere are customary rules of law more prominent than in international law. The customs defining the obligations of each State to other States and, to some extent, to its own citizens, are often treated as legally binding. However, unlike natural law and positive law, customary law has received very little scholarly analysis. To remedy this neglect, a distinguished group of philosophers, historians and lawyers has been assembled to assess the nature and significance of customary law. The book offers fresh new insights on this neglected and misunderstood form of law.



"Should Presidents Obey the Law (And What is "The Law" Anyway)", in The Values of Presidential Leadership, edited by Terry L. Price and J. Thomas Wren, New York NY: Palgrave Macmillan, 2007 JK516.V35 2007 Basement

In this volume, presidential scholars from communication, history, law, philosophy, political science, and psychology explore the broader phenomenon of leadership. Like leadership more generally, presidential leadership is a value-laden activity, an exercise in communication, and a collective enterprise. It is also subject to psychological and historical barriers to interpretation. Finally, presidential leadership is instrumental: presidents must achieve their valued ends. Contributors address each of these aspects of leadership in essays on how presidential values are determined or constructed, how they are condoned and criticized, how they are packaged and conveyed, and how they are interpreted and acted upon.

"Legislatures as Rule-Followers, in The Least Examined Branch: The Role of Legislatures in the Constitutional State, edited by Richard W. Bauman and Tsvi Kahana, Cambridge; New York: Cambridge University Press, 2006 K3316 .L44 2006 Balcony



Unlike most works in constitutional theory, which focus on the role of the courts, this book addresses the role of legislatures in a regime of constitutional democracy. Bringing together some of the world's leading constitutional scholars and political scientists, the book addresses legislatures in democratic theory, legislating and deliberating in the constitutional state, constitution-making by legislatures, legislative and popular constitutionalism, and the dialogic role of legislatures, both domestically with other institutions and internationally with other legislatures. The book offers theoretical perspectives as well as case studies of several types of legislation from the United States and Canada. It also addresses the role of legislatures both under the Westminster model and under a separation of powers systems.

"The Exceptional First Amendment", in American Exceptionalism and Human Rights, edited by Michael Ignatieff, Princeton, N.J.: Princeton University Press, c2005 JC599.U5 A494 2005 Basement



With the 2003 invasion and subsequent occupation of Iraq, the most controversial question in world politics fast became whether the United States stands within the order of international law or outside it. Does America still play by the rules it helped create? American Exceptionalism and Human Rights addresses this question as it applies to U.S. behavior in relation to international human rights. With essays by eleven leading experts in such fields as international relations and international law, it seeks to show and explain how America's approach to human rights differs from that of most other Western nations. In his introduction, Michael Ignatieff identifies three main types of exceptionalism: exemptionalism (supporting treaties as long as Americans are exempt from them); double standards (criticizing others for not heeding the findings of international human rights bodies, but ignoring what these bodies say of the United States); and legal isolationism (the tendency of American judges to ignore other jurisdictions). The contributors use Ignatieff's essay as a jumping-off point to discuss specific types of exceptionalism--America's approach to capital punishment and to free speech, for example--or to explore the social, cultural, and institutional roots of exceptionalism. These essays--most of which appear in print here for the first time, and all of which have been revised or updated since being presented in a year-long lecture series on American exceptionalism at Harvard University's John F. Kennedy School of Government--are by Stanley Hoffmann, Paul Kahn, Harold Koh, Frank Michelman, Andrew Moravcsik, John Ruggie, Frederick Schauer, Anne-Marie Slaughter, Carol Steiker, and CassSunstein.



"Freedom of Expression Adjudication in Europe and American: A Case Study in Comparative Constitutional Architecture", in European and U.S. Constitutionalism, edited by George Nolte, Cambridge; New York: Cambridge University Press, 2005 K3165.E87 2005 Balcony

European constitutionalism is not merely an intra-European phenomenon but can also be compared to other major forms of constitutionalism. Over the past decade or so issues have emerged which seem to indicate that European constitutional theory and practice is becoming aware that it has developed certain rules and possesses certain characteristics which distinguish it from US constitutionalism and

vice versa. The contributors to this book are constitutional scholars from Europe and the United States as well as from other constitutional states, such as Canada, Israel, Japan, Peru and South Africa.

"On the relationship Between Press Law and Press Content", in Freeing the Presses: The First Amendment in Action, edited by Timothy E. Cook, Baton Rouge: Louisiana State University Press, 2005

KF4774 .F745 2005 Balcony

FREEING THE
PRESSES
THE FIRST AMENGMENT
BY ACTION
ENTERS BY
THAUTHY E. COOK

Most Americans consider a free press essential to democratic society-either as an independent watchdog against governmental abuse of power or as a wide-open marketplace of ideas. But few understand that far-reaching public policies have shaped the news citizens receive. In an age when mass communication ranges from independent cable channels to the Internet, it is essential to assess these policies and their effects if we want the media to continue fulfilling its role. Freeing the Presses offers a pathbreaking inquiry into the theory and practice of freedom of the press at a critical time in the growing overlap between modern media and political discussion.

"The 'Speech-ing' of Sexual Harassment", in Directions in Sexual Harassment Law, edited by Catharine MacKinnon and Reva Siegel, New Haven, Conn.: Yale University Press, c2004 KF3476 .D47 2004 Balcony



When it was published twenty-five years ago, Catharine MacKinnon's pathbreaking work Sexual Harassment of Working Women had a major impact on the development of sexual harassment law. The U.S. Supreme Court accepted her theory of sexual harassment in 1986. Here MacKinnon collaborates with eminent authorities to appraise what has been accomplished in the field and what still needs to be done. An introductory essay by Reva Siegel considers how sexual harassment came to be regulated as sex discrimination. Contributors discuss how law can best address sexual harassment; the importance and definition of consent and unwelcomeness; issues of same-sex harassment; questions of institutional responsibility for sexual harassment in both employment and education settings; considerations of freedom of speech; effects of sexual harassment doctrine on gender and racial justice; and transnational approaches to the problem. An afterword by MacKinnon assesses the changes wrought by sexual harassment law in the past quarter century.

"First Amendment Opportunism", in Eternally Vigilant: Free Speech in the Modern Era, edited by Lee C. Bollinger and Geoffrey R. Stone, Chicago: University of Chicago Press, 2002 KF4772.E86 2002 Balcony



While freedom of speech has been guaranteed us for centuries, the First Amendment as we know it today is largely a creation of the past eighty years. Eternally Vigilant brings together a group of distinguished legal scholars to reflect boldly on its past, its present shape, and what forms our understanding of it might take in the future. The result is a unique volume spanning the entire spectrum of First Amendment issues, from its philosophical underpinnings to specific issues like campaign regulation, obscenity, and the new media. "With group efforts, such as this collection of essays, it is almost inevitable that there will be a couple--and often several--duds among the bunch, or at least a dismaying repetition of ideas. Such is not the case here. . . . Whether one agrees with a given author or not (and it is possible to do both with any of the essays), each has something to add. Overall, Eternally Vigilant is a thoughtful and thought-provoking book, consistently intelligent and, at times, brilliant."--Richard J. Mollot, New York Law Journal Contributors: Lillian R. BeVier Vincent Blasi Lee C. Bollinger Stanley Fish Owen M. Fiss R. Kent Greenawalt Richard A. Posner Robert C. Post Frederick Schauer Geoffrey R. Stone David A. Strauss Cass R. Sunstein

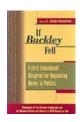


"The Cost of Communicative Tolerance", in Liberal Democracy and the Limits of Tolerance: Essays in Honor and Memory of Yitzhak Rabin, edited by Raphael Cohen-Almagor, Ann Arbor: University of Michigan Press, 2000

JC591 .L52 2000 Sohn Library

An irony inherent in all political systems is that the principles that underlie and characterize them can also endanger and destroy them. This collection examines the limits that need to be imposed on democracy, liberty, and tolerance in order to ensure the survival of the societies that cherish them. The

essays in this volume consider the philosophical difficulties inherent in the concepts of liberty and tolerance; at the same time, they ponder practical problems arising from the tensions between the forces of democracy and the destructive elements that take advantage of liberty to bring harm that undermines democracy. Written in the wake of the assasination of Yitzhak Rabin, this volume is thus dedicated to the question of boundaries: how should democracies cope with antidemocratic forces that challenge its system? How should we respond to threats that undermine democracy and at the same time retain our values and maintain our commitment to democracy and to its underlying values? All the essays here share a belief in the urgency of the need to tackle and find adequate answers to radicalism and political extremism. They cover such topics as the dilemmas embodied in the notion of tolerance, including the cost and regulation of free speech; incitement as distinct from advocacy; the challenge of religious extremism to liberal democracy; the problematics of hate speech; free communication, freedom of the media, and especially the relationships between media and terrorism. The contributors to this volume are David E. Boeyink, Harvey Chisick, Irwin Cotler, David Feldman, Owen Fiss, David Goldberg, J. Michael Jaffe, Edmund B. Lambeth, Sam Lehman-Wilzig, Joseph Eliot Magnet, Richard Moon, Frederick Schauer, and L.W. Sumner. The volume includes the opening remarks of Mrs. Yitzhak Rabin to the conference--dedicated to the late Yitzhak Rabin--at which these papers were originally presented. These studies will appeal to politicians, sociologists, media educators and professionals, jurists and lawyers, as well as the general public.



"Electoral Exceptionalism and the First Amendment", in If Buckley Fell: a First Amendment Blueprint for Regulating Money in Politics, edited by E. Joshua Rosenkranz, New York: Century Foundation Press, 1999

KF4920 .I39 1999 Balcony

This volume of essays, a project with the Brennan Center for Justice at NYU School of Law, examines the possibilities if the Supreme Court were to undo the decision in Buckley v. Valeo and allows spending caps on election campaigns.

"Talking as a Decision Procedure", in Deliberative Politics: Essays on Democracy and Disagreement, edited by Stephen Macedo, New York: Oxford University Press, 1999
JC423.D3895 1999 Basement



The banner of deliberative democracy is attracting increasing numbers of supporters, in both the world's older and newer democracies. This effort to renew democratic politics is widely seen as a reaction to the dominance of liberal constitutionalism. But many questions surround this new project. What does deliberative democracy stand for? What difference would deliberative practices make in the real world of political conflict and public policy design? What is the relationship between deliberative politics and liberal constitutional arrangements? The 1996 publication of Amy Gutmann and Dennis F. Thompsons Democracy and Disagreement was a signal contribution to the ongoing debate over the role of moral deliberation in democratic politics. In Deliberative Politics an all-star cast of political, legal, and moral commentators seek to criticize, extend, or provide alternatives to Gutmann and Thompson's hopeful model of democratic deliberation. The essays discuss the value and limits of moral deliberation in politics, and take up practical policy issues such as abortion, affirmative action, and health care reform. Among the impressive roster of contributors are Norman Daniels, Stanley Fish, William A. Galston, Jane Mansbridge, Cass R. Sunstein, Michael Walzer, and Iris Marion Young, and the editor of the volume, Stephen Macedo. The book concludes with a thoughtful response from Gutmann and Thompson to their esteemed critics. This fine collection is essential reading for anyone who takes seriously the call for a more deliberative politics.



"Fuller on the Ontological Status of Law", in Rediscovering Fuller: Essays on Implicit Law and Institutional Design, edited by Willem J. Witteveen and Wibren van der Burg, Amsterdam: Amsterdam University Press 1999

K235 .R436 1999 Balcony

Lon Fuller, one of the great American jurists of this century, is often remembered only for his stand on the morality of law in the Fuller-Hart debate. Rediscovering Fuller considers the full range of Fuller's writings, from his early engagement with legal fictions and his critique of legal positivism to his later work on implicit law and the art of institutional design. Contributors from the fields of both civil law and common law argue that Fuller's insights are highly relevant to contemporary concerns. The book

contains essays by K. Winston, D. Dyzenhaus, P. Cliteur, F. Schauer ("Beyond the Fuller-Hart Debate"), P. Westerman, W. van der Burg, D. Luban ("Moralities of Law"), G. Postema, P. Teachout ("Implicit Law"), R. Macdonald, W. Witteveen, J. Allison, M. Hertogh, K. Soltan ("The Art of Institutional Design"), J. Allan, F. Mootz, J. Vining ("Law's Dialogue"), and a preface by Ph. Selznick. "At some point in the future, when we become more open to the moral relevance of social inquiry, more empirical in our study of philosophical issues, more capable of uniting moral and social theory, Lon Fuller's work will stand as a landmark. This volume will help show the way." —Ph. Selznick