The Case Against Supreme Court Erwin Chemerinsky

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Supreme Inequality Simon and Schuster
Legitimacy and judicial authority -- Constitutional meaning : original public meaning -- Constitutional meaning : varieties of history that matter -- Law in the Supreme Court : jurisprudential foundations -- Constitutional constraints -- Constitutional theory and its relation to constitutional practice -- Sociological, legal, and moral legitimacy : today and tomorrow
Law and Legitimacy in the Supreme Court iUniverse
The Model Rules of Professional Conduct provides an up-to-date resource for information on legal ethics. Federal, state and local courts in all jurisdictions look to the Rules for guidance in solving lawyer malpractice cases, disciplinary actions, disqualification issues, sanctions questions and much more. In this volume, black-letter Rules of Professional Conduct are followed by numbered Comments that explain each Rule's purpose and provide suggestions for its practical application. The Rules will help you identify proper conduct in a variety of given situations, review those instances where discretionary action is possible, and define the nature of the relationship between you and your clients, colleagues and the courts.
The Case Against the Supreme Court Aspen Publishing
"Must reading for anyone who seeks a better understanding of the U.S. Supreme Court's role in race relations policy." —Choice "Beware! Those committed to the Supreme Court as the ultimate defender of minority rights should not read Race Against the Court. Through a systematic peeling away of antimajoritarian myth, Spann reveals why the measure of relief the Court grants victims of racial injustice is determined less by the character of harm suffered by blacks than the degree of disadvantage the relief sought will impose on whites. A truly pathbreaking work." —Derrick Bell As persuasive as it is bold. Race Against The Court stands as a necessary warning to a generation of progressives who have come to depend on the Supreme Court of the perils of such dependency. It joins with Bruce Ackerman's We, the People and John Brigham's Cult of the Court as the best in contemporary work on the Supreme Court. —Austin Sarat, William Nelson,Cromwell Professor of Jurisprudence and Political Science, Amherst College The controversies surrounding the nominations, confirmations, and rejections of recent Supreme Court justices, and the increasingly conservative nature of the Court, have focused attention on the Supreme Court as never before. Although the Supreme Court is commonly understood to be the guardian of minority rights against the tyranny of the majority, Race Against The Court argues that the Court has never successfully performed this function. Rather the actual function of the Court has been to perpetuate the subordination of racial minorities by operating as an undetected agent of majoritarian preferences in the political preferences. In this provocative, controversial, and timely work, Girardeau Spann illustrates how the selection process for Supreme Court justices ensures that they will share the political preferences of the elite majority that runs the nation. Customary safeguards that are designed to protect the judicial process from majoritarian predispositions, Spann contends, cannot successfully insulate judicial decisionmaking from the pervasive societal pressures that exist to discount racial minority interests. The case most often cited as the icon of Court sensitivity to minority rights, Brown v. Board of Education, has more recently served to lull minorities into believing that efforts at political self-determination are futile, fostering a seductive dependence and overreliance on the Court as the caretaker of minority rights. Race Against The Court demonstrates how the Court has centralized the law of affirmative action in a way that stymies minority efforts for meaningful political and economic gain and how it has legitimated the legal status quo in a way that causes minorities never even to question the inevitability of their subordinate social status. Spann contends that racial minorities would be better off seeking to advance their interests in the pluralist political process and proposes a novel strategy for minorities to pursue in order to extricate themselves from the seemingly inescapable grasp of Supreme Court protection. Certain to generate lively, heated debate, Race Against The Court exposes the veiled majoritarianism of the Supreme Court and the dangers of allowing the Court to formulate our national racial policy.
Supreme Myths Oxford University Press
The Supreme Court in United States History is a three-volume history of the U.S. Supreme Court, detailing its establishment, the major cases reviewed and decided by the Court, the historical events surrounding cases and decisions, and the effects that Supreme Court decisions had on the public. Author Charles Warren often references newspaper and magazine articles and letters in an attempt to capture the spirit of the times. Written with one eye on the Court and one eye on people, The Supreme Court in United States History was "an attempt to revivify the important cases decided by the Court and to picture the Court itself from year to year in its contemporary setting." Volume I describes Supreme Court History from 1789 to 1821, including the establishment of the first courts and the circuit, state sovereignty and neutrality, The Mandamus Case, impeachment and treason, Pennsylvania and Georgia against the Court, The Bank of the United States, and various Chief Justices throughout this time period. CHARLES WARREN (1868-1954) was an American legal historian and lawyer. Warren graduated from Harvard University and Harvard Law School, and received his Doctorate from Columbia University. In 1894, he founded the Immigration Restriction League with fellow Harvard graduates Prescott Hall and Robert DeCourcy Ward. He authored several legal history books, including A History of the American Bar, The Supreme Court in United States History, and The Making of the Constitution, and won the Pulitzer Prize for History in 1923. Warren was the Assistant Attorney General from 1914 to 1918 during Woodrow Wilson's Presidency and drafted the Espionage Act of 1917.
The Hidden History of the Supreme Court and the Betrayal of America Infobase Publishing
"Hartmann delivers a full-throated indictment of the U.S. Supreme Court in this punchy polemic." --Publishers Weekly Thom Hartmann, the most popular progressive radio host in America and a New York Times bestselling author, lays out a sweeping and largely unknown history of the Supreme Court of the United States, from Alexander Hamilton's arguments against judicial review to modern-day debates, with key examples of cases where the Supreme Court overstepped its constitutional powers using the excuse of judicial review, and possible solutions. Hartmann explains how the Supreme Court has spilled beyond its Constitutional powers in a series of rulings, including how it turned our elections over to American and foreign oligarchs with twin decisions in the 1970s, setting the stage for the very richest of that day to bring Ronald Reagan to power. You'll hear the story of a series of Republican presidents who used fraud and treason to secure their elections, and how the GOP knew it but looked the other way because "the Court is hanging in the balance." A court that then went on to gut hundreds of pieces of progressive legislation, as Republicans had hoped. Ironically, Hartmann points out, John Roberts (now the Court's Chief Justice), when he worked for Ronald Reagan in the 1980s, came up with a novel theory about how Congress could go around the Supreme Court. His goal was to effectively reverse Roe v. Wade and Brown v. Board, but in the process provides us with an elegant legal argument and legislative solution that could, in an emergency, be used by a progressive Congress and president to clean up much of the damage the Court has done in past decades. Thomas Jefferson argued it is not the role of the Supreme Court to decide what the Constitution means, but rather the duty of the people themselves (and how they can do it). America may soon be forced to decide if it's going to continue to be governed as a constitutional monarchy, with nine unelected royals who have final say on everything, or if we are to revert to being a democratic republic as was largely the case before the late 1800s when America's first industrial era oligarchs corrupted the Court.
Justice on the Brink Penguin
This is a collection of 1500 quotes from more than 1000 Supreme Court decisions. These excerpts, dating from the beginning of the Republic, are arranged to include the legislative, judicial, and executive branches; states' rights; due process; free speech; equal rights; and freedom of religion.
Landmark Supreme Court Cases Russell Sage Foundation
A preeminent constitutional scholar offers a hard-hitting analysis of the Supreme Court over the last two hundred years Most Americans share the perception that the Supreme Court is objective, but Erwin Chemerinsky, one of the country ' s leading constitutional lawyers, shows that this is nonsense and always has been. The Court is made up of fallible individuals who base decisions on their own biases. Today, the Roberts Court is promoting a conservative agenda under the guise of following a neutral methodology, but notorious decisions, such as Bush vs. Gore and Citizens United, are hardly recent exceptions. This devastating book details, case by case, how the Court has largely failed throughout American history at its most important tasks and at the most important times. Only someone of Chemerinsky ' s stature and breadth of knowledge could take on this controversial topic. Powerfully arguing for term limits for justices and a reassessment of the institution as a whole, The Case Against the Supreme Court is a timely and important book that will be widely read and cited for decades to come.
A People's History of the Supreme Court Penguin Books
The gripping story of the Supreme Court ' s transformation from a measured institution of law and justice into a highly politicized body dominated by a right-wing supermajority, told through the dramatic lens of its most transformative year, by the Pulitzer Prize – winning law columnist for The New York Times " A dazzling feat . . . meaty, often scintillating and sometimes scary . . . Greenhouse is a virtuoso of SCOTUS analysis. " —The Washington Post In Justice on the Brink, legendary journalist Linda Greenhouse gives us unique insight into a court under stress, providing the context and brilliant analysis readers of her work in The New York Times have come to expect. In a page-turning narrative, she recounts the twelve months when the court turned its back on its legacy and traditions, abandoning any effort to stay above and separate from politics. With remarkable clarity and deep institutional knowledge, Greenhouse shows the seeds being planted for the court ' s eventual overturning of Roe v. Wade, expansion of access to guns, and unprecedented elevation of religious rights in American society. Both a chronicle and a requiem, Justice on the Brink depicts the struggle for the soul of the Supreme Court, and points to the future that awaits all of us.
The Federalist Papers CQ Press
Both historically and in the present, the Supreme Court has largely been a failure In this devastating book, Erwin Chemerinsky— " one of the shining lights of legal academia " (The New York Times)—shows how, case by case, for over two centuries, the hallowed Court has been far more likely to uphold government abuses of power than to stop them. Drawing on a wealth of rulings, some famous, others little known, he reviews the Supreme Court ' s historic failures in key areas, including the refusal to protect minorities, the upholding of gender discrimination, and the neglect of the Constitution in times of crisis, from World War I through 9/11. No one is better suited to make this case than Chemerinsky. He has studied, taught, and practiced constitutional law for thirty years and has argued before the Supreme Court. With passion and eloquence, Chemerinsky advocates reforms that could make the system work better, and he challenges us to think more critically about the nature of the Court and the fallible men and women who sit on it.
Brown v. Board of Education Read Books Ltd
Classic Books Library presents this brand new edition of " The Federalist Papers " , a collection of separate essays and articles compiled in 1788 by Alexander Hamilton. Following the United States Declaration of Independence in 1776, the governing doctrines and policies of the States lacked cohesion. " The Federalist " , as it was previously known, was constructed by American statesman Alexander Hamilton, and was intended to catalyse the ratification of the United States Constitution. Hamilton recruited fellow statesmen James Madison Jr., and John Jay to write papers for the compendium, and the three are known as some of the Founding Fathers of the United States. Alexander Hamilton (c. 1755 – 1804) was an American lawyer, journalist and highly influential government official. He also served as a Senior Officer in the Army between 1799-1800 and founded the Federalist Party, the system that governed the nation ' s finances. His contributions to the Constitution and leadership made a significant and lasting impact on the early development of the nation of the United States.
The Texas Supreme Court University of Texas Press
This review of the Supreme Court's October 2020 Term looks back at the major cases addressed by the Court and provides a valuable focus on the implications of these decisions. Written by Erwin Chemerinsky, Dean of the University of California at Berkeley School of Law, the book takes a neutral tone, neither praising nor criticizing the decisions, and organizes the case essays by topic.
Judging Inequality Bold Type Books
A selection of the landmark Supreme Court decisions that have shaped American society Penguin presents a series of six portable, accessible, and—above all—essential reads from American political history, selected by leading scholars. Series editor Richard Beeman, author of The Penguin Guide to the U.S. Constitution, draws together the great texts of American civic life, including the founding documents, pivotal historical speeches, and important Supreme Court decisions, to create a timely and informative mini-library of perennially vital issues. The Supreme Court is one of America's leading expositors of and participants in debates about American values. Legal expert Jay M. Feinman introduces and selects some of the most important Supreme Court Decisions of all time, which touch on the very foundations of American society. These cases cover a vast array of issues, from the powers of government and freedom of speech to freedom of religion and civil liberties. Feinman offers commentary on each case and excerpts from the opinions of the Justices that show the range of debate in the Supreme Court and its importance to civil society. Among the cases included will be Marbury v. Madison, on the supremacy of the Constitution and the power of judicial review; U.S. v. Nixon, on separation of powers; and Hamdi v. Rumsfeld, a post-9/11 case on presidential power and due process.
The Conservative Assault on the Constitution Crown

“ Few people realize that in the area of law, Texas began its American journey far ahead of most of the rest of the country, far more enlightened on such subjects as women ’ s rights and the protection of debtors. ” Thus James Haley begins this highly readable account of the Texas Supreme Court. The first book-length history of the Court published since 1917, it tells the story of the Texas Supreme Court from its origins in the Republic of Texas to the political and philosophical upheavals of the mid-1980s. Using a lively narrative style rather than a legalistic approach, Haley describes the twists and turns of an evolving judiciary both empowered and constrained by its dual ties to Spanish civil law and English common law. He focuses on the personalities and judicial philosophies of those who served on the Supreme Court, as well as on the interplay between the Court ’ s rulings and the state ’ s unique history in such areas as slavery, women ’ s rights, land and water rights, the rise of the railroad and oil and gas industries, Prohibition, civil rights, and consumer protection. The book is illustrated with more than fifty historical photos, many from the nineteenth and early twentieth centuries. It concludes with a detailed chronology of milestones in the Supreme Court ’ s history and a list, with appointment and election dates, of the more than 150 justices who have served on the Court since 1836.

The Supreme Court in United States History National Geographic Books

First published in 1954, this indispensable reference quickly became the gold standard for concise summaries of important U.S. Supreme Court cases. The only reference guide to Supreme Court cases organized both topically and chronologically within chapters so that readers understand how cases fit into a historical context, the 15th edition has been extensively revised to ensure that it remains the most up-to-date resource available. An essential resource for law students, lawyers, and everyone interested in our nation's Constitution and the Supreme Court decisions that explicate it.

The Case Against the Supreme Court Routledge

When the first Supreme Court convened in 1790, it was so ill-esteemed that its justices frequently resigned in favor of other pursuits. John Rutledge stepped down as Associate Justice to become a state judge in South Carolina; John Jay resigned as Chief Justice to run for Governor of New York; and Alexander Hamilton declined to replace Jay, pursuing a private law practice instead. As Bernard Schwartz shows in this landmark history, the Supreme Court has indeed travelled a long and interesting journey to its current preeminent place in American life. In A History of the Supreme Court, Schwartz provides the finest, most comprehensive one-volume narrative ever published of our highest court. With impeccable scholarship and a clear, engaging style, he tells the story of the justices and their jurisprudence--and the influence the Court has had on American politics and society. With a keen ability to explain complex legal issues for the nonspecialist, he takes us through both the great and the undistinguished Courts of our nation's history. He provides insight into our foremost justices, such as John Marshall (who established judicial review in Marbury v. Madison, an outstanding display of political calculation as well as fine jurisprudence), Roger Taney (whose legacy has been overshadowed by Dred Scott v. Sanford), Oliver Wendell Holmes, Louis Brandeis, Benjamin Cardozo, and others. He draws on evidence such as personal letters and interviews to show how the court has worked, weaving narrative details into deft discussions of the developments in constitutional law. Schwartz also examines the operations of the court: until 1935, it met in a small room under the Senate--so cramped that the judges had to put on their robes in full view of the spectators. But when the new building was finally opened, one justice called it "almost bombastically pretentious," and another asked, "What are we supposed to do, ride in on nine elephants?" He includes fascinating asides, on the debate in the first Court, for instance, over the use of English-style wigs and gowns (the decision: gowns, no wigs); and on the day Oliver Wendell Holmes announced his resignation--the same day that Earl Warren, as a California District Attorney, argued his first case before the Court. The author brings the story right up to the present day, offering balanced analyses of the pivotal Warren Court and the Rehnquist Court through 1992 (including, of course, the arrival of Clarence Thomas). In addition, he includes four special chapters on watershed cases: Dred Scott v. Sanford, Lochner v. New York, Brown v. Board of Education, and Roe v. Wade. Schwartz not only analyzes the impact of each of these epoch-making cases, he takes us behind the scenes, drawing on all available evidence to show how the justices debated the cases and how they settled on their opinions. Bernard Schwartz is one of the most highly regarded scholars of the Supreme Court, author of dozens of books on the law, and winner of the American Bar Association's Silver Gavel Award. In this remarkable account, he provides the definitive one-volume account of our nation's highest court.

The Health Care Case American Bar Association

Feminist scholars rewrite major tax decisions in order to illustrate the key role of viewpoint in statutory interpretation.

Supreme Court Decisions Liveright Publishing

Over the last few decades, the Supreme Court and the federal appellate courts have undergone a dramatic shift to the right, the result of a determined effort by right-wing lawmakers and presidents to reinterpret the Constitution by reshaping the judiciary. Conservative activist justices have narrowed the scope of the Constitution, denying its protections to millions of Americans, exactly as the lawmakers who appointed and confirmed these jurists intended. Basic long-standing principles of constitutional law have been overturned by the Rehnquist and Roberts courts. As distinguished law professor and constitutional expert Erwin Chemerinsky demonstrates in this invaluable book, these changes affect the lives of every American. As a result of political pressure from conservatives and a series of Supreme Court decisions, our public schools are increasingly separate and unequal, to the great disadvantage of poor and minority students. Right-wing politicians and justices are dismantling the wall separating church and state, allowing ever greater government support for religion. With the blessing of the Supreme Court, absurdly harsh sentences are being handed down to criminal defendants, such as life sentences for shoplifting and other petty offenses. Even in death penalty cases, defendants are being denied the right to competent counsel at trial, and as a result innocent people have been convicted and sentenced to death. Right-wing politicians complain that government is too big and intrusive while at the same time they are only too happy to insert the government into the most intimate aspects of the private lives of citizens when doing so conforms to conservative morality. Conservative activist judges say that the Constitution gives people an inherent right to own firearms but not to make their own medical decisions. In some states it is easier to buy an assault rifle than to obtain an abortion. Nowhere has the conservative assault on the Constitution been more visible or more successful than in redefining the role of the president. From Richard Nixon to George W. Bush, conservatives have sought to significantly increase presidential power. The result in recent years has been unprecedented abuses, including indefinite detentions, illegal surveillance, and torture of innocent people. Finally, access to the courts is being restricted by new rulings that deny legal protections to ordinary Americans. Fewer lawsuits alleging discrimination in employment are heard; fewer people are able to sue corporations or governments for injuries they have suffered; and even when these cases do go to trial, new restrictions limit damages that plaintiffs can collect. The first step in reclaiming the protections of the Constitution, says Chemerinsky, is to recognize that right-wing justices are imposing their personal prejudices, not making neutral decisions about the scope of the Constitution, as they claim, or following the "original meaning" of the Constitution. Only then do we stand a chance of reclaiming our constitutional liberties from a rigid ideological campaign that has transformed our courts and our laws. Only then can we return to a constitutional law that advances freedom and equality.

Model Rules of Professional Conduct Penguin

From 2011, when Republicans gained control of the House of Representatives, until the present, Congress enacted hardly any major legislation outside of the tax law President Trump signed in 2017. In the same period, the Supreme Court dismantled much of America's campaign finance law, severely weakened the Voting Rights Act, permitted states to opt-out of the Affordable Care Act's Medicaid expansion, weakened laws protecting against age discimination and sexual and racial harassment, and held that every state must permit same-sex couples to marry. This powerful unelected body, now controlled by six very conservative Republicans, has and will become the locus of policymaking in the United States. Ian Millhiser, Vox's Supreme Court correspondent, tells the story of what those six justices are likely to do with their power. It is true that the right to abortion is in its final days, as is affirmative action. But Millhiser shows that it is in the most arcane decisions that the Court will fundamentally reshape America, transforming it into something far less democratic, by attacking voting rights, dismantling and vetoing the federal administrative state, ignoring the separation of church and state, and putting corporations above the law. The Agenda exposes a radically altered Supreme Court whose powers extend far beyond transforming any individual right--its agenda is to shape the very nature of America's government, redefining who gets to have legal rights, who is beyond the reach of the law, and who chooses the people who make our laws.

The Agenda Oxford University Press

The chief mandate of the criminal justice system is not to prosecute the guilty but to safeguard the innocent from wrongful convictions; with this startling assertion, legal scholar George Thomas launches his critique of the U.S. system and its emphasis on procedure at the expense of true justice. Thomas traces the history of jury trials, an important component of the U.S. justice system, since the American Founding. In the mid-twentieth century, when it became evident that racism and other forms of discrimination were corrupting the system, the Warren Court established procedure as the most important element of criminal justice. As a result, police, prosecutors, and judges have become more concerned about following rules than about ensuring that the defendant is indeed guilty as charged. Recent cases of prisoners convicted of crimes they didn't commit demonstrate that such procedural justice cannot substitute for substantive justice. American justices, Thomas concludes, should take a lesson from the French, who have instituted, among other measures, the creation of an independent court to review claims of innocence based on new evidence. Similar reforms in the United States would better enable the criminal justice system to fulfill its moral and legal obligation to prevent wrongful convictions. "Thomas draws on his extensive knowledge of the field to elaborate his elegant and important thesis---that the American system of justice has lost sight of what ought to be its central purpose---protection of the innocent." — Susan Bandes, Distinguished Research Professor of Law, DePaul University College of Law "Thomas explores how America's adversary system evolved into one obsessed with procedure for its own sake or in the cause of restraining government power, giving short shrift to getting only the right guy. His stunning, thought-provoking, and unexpected recommendations should be of interest to every citizen who cares about justice." — Andrew E. Taslitz, Professor of Law, Howard University School of Law "An unflinching, insightful, and powerful critique of American criminal justice---and its deficiencies. George Thomas demonstrates once again why he is one of the nation's leading criminal procedure scholars. His knowledge of criminal law history and comparative criminal law is most impressive." — Yale Kamisar, Distinguished Professor of Law, University of San Diego and Clarence Darrow Distinguished University Professor Emeritus of Law, University of Michigan

We the Students ABC-CLIO

"This book describes and explains the failure of the federal courts of the United States to act and to provide remedies to individuals whose constitutional rights have been violated by illegal state coercion and violence. This remedial vacuum must be understood in light of the original design and historical development of the federal courts. At its conception, the federal judiciary was assumed to be independent thanks to an apolitical appointment process, a limited supply of adequately trained lawyers (which would prevent cherry-picking), and the constraining effect of laws and constitutional provision. Each of these checks quickly failed. As a result, the early federal judicial system was highly dependent on Congress. Not until the last quarter of the nineteenth century did a robust federal judiciary start to emerge, and not until the first quarter of the twentieth century did it take anything like its present form. The book then charts how the pressure from Congress and the White House has continued to shape courts behaviour-first eliciting a mid-twentieth-century explosion in individual remedies, and then driving a five-decade long collapse. Judges themselves have not avidly resisted this decline, in part because of ideological reasons and in part out of institutional worries about a ballooning docket. Today, as a result of these trends, the courts are stingy with individual remedies, but aggressively enforce the so-called "structural" constitution of the separation of powers and federalism. This cocktail has highly regressive effects, and is in urgent need of reform"--