

Talking it Through

Puzzles of American Democracy

ROBERT W. BENNETT

"Robert Bennett offers a provocative view of American democracy as a method of involving citizens in conversation. His perspective sheds light on some familiar puzzles, and some previously ignored ones."—Mark Tushnet, Georgetown University Law Center. \$29.95

Domestic Violence and the Politics of Privacy

KRISTIN A. KELLY

"[This book] is a valuable contribution to work on public-private distinctions and feminist theorizing, with a focus on issues that are rooted in private realms of domesticity, intimate relationships, and the family."—Patricia Boling, Purdue University. 1 line drawing, 4 tables. \$39.95 cloth, \$16.95 paper

Justice Contained

Law and Politics in the European Union

LISA CONANT

"*Justice Contained* is an important contribution to our understanding of how policy change in the 'New Europe' actually comes about. Lisa Conant analyzes the substantive impact of European Court of Justice decisions by examining broad political contexts . . . and thereby helps explain why some Court decisions have a great deal of impact while others have much less."—Alberta M. Sbragia, Director, European Union Center at the Center for West European Studies. 2 line figures, 22 tables. \$39.95

Looking Back at Law's Century

EDITED BY AUSTIN SARAT,
BRYANT GARTH AND ROBERT A. KAGAN

This book describes a century of tremendous legal change, of inspiring legal developments, and profound failures.

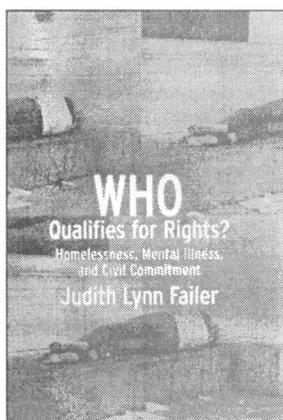
"*Looking Back at Law's Century* is noteworthy because of the important contributions made by major thinkers approaching law from a wide variety of disciplinary perspectives. This is an outstanding collection."—Paul Schiff Berman, University of Connecticut School of Law. 14 charts/graphs. \$45.00

Law's Interior

Legal and Literary Constructions of the Self

KEVIN M. CROTTY

"In this cautionary note to Legal Realism, Crotty reminds us that law is not just something that governments do. Instead, it is a characteristic human activity and, as such, a part of the way that people think of themselves."—*The Law and Politics Book Review*. \$32.50



Who Qualifies for Rights?

*Homelessness, Mental Illness,
and Civil Commitment*

JUDITH LYNN FAILER

"Judith Lynn Failer challenges us to reflect more deeply than we often do about the homeless mentally ill, and especially about the use of civil commitment to remove such people from the streets."—Joseph H. Carens, University of Toronto. \$29.95

Cornell University Press

At bookstores, or call (607) 277-2211 • www.cornellpress.cornell.edu



From the University of Chicago Press
www.press.uchicago.edu

Supreme Court Economic Review

Volume 10

*A symposium: "Rule of Law, Freedom,
and Prosperity"*

*based on the George Mason University School of
Law conference of November 2001*

Four special sections include

The Legal and Economic Foundations for Freedom and Prosperity

Joel Mokyr, Northwestern University
*"Why Is the Industrial Revolution a European
Phenomenon?"*

Francesco Parisi, George Mason University School
of Law
"Freedom of Contract and the Laws of Entropy"

The Social Causes and Consequences of Economic Growth

Peter Boettke, George Mason University Department
of Economics
*"Rule of Law, Development and Human
Capabilities"*

Paul J. Zak, Claremont Graduate College, and **Stephen
Knack**, World Bank
*"Building Trust: Public Policy, Interpersonal Trust,
and Economic Development"*

Constitutionalism

James Buchanan, George Mason University Department
of Economics
"The Constitutional Way of Thinking"

Robert Cooter, University of California-Berkeley
*"Who Gets on Top in Democracy? Elections
as Filters"*

The Challenge of Growing a Rule of Law

Bernie Black, Stanford University School
of Law, and **Anna Tarrasova**, Center for
Institutional Reform and the Informal Sector,
University of Maryland
*"Beyond Privatization: Microeconomic and Legal Reform
in Russia"*

Susan Rose-Ackerman, Yale Law School, and **Jeff Bowen**
*"Partisan Politics and Executive Accountability in
Argentina: A Comparative Analysis"*

Supreme Court Economic Review is a unique interdisciplinary series that applies economic and legal scholarship to the work of the Supreme Court of the United States. Contributors provide an economic analysis of the events that generated the Court's cases, its functioning as an organization, the reasoning the Court employs in reaching its decisions, and the impact these verdicts have on society. Hoping to stimulate interest in the economic dimension of the Supreme Court and to explore solutions to the complex problems it addresses, *SCER* delves far into truly merging law and economics. Its focus on the Supreme Court makes *SCER* an outlet for law and economics analysis that is not available elsewhere.



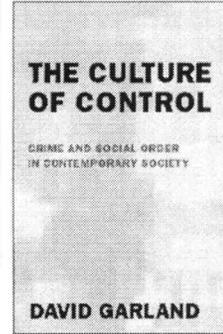
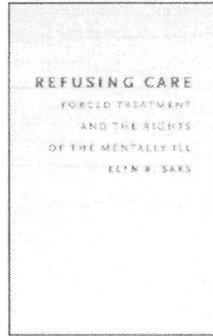
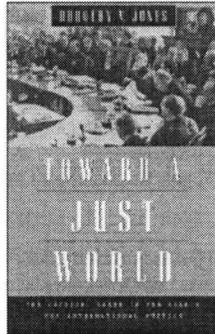
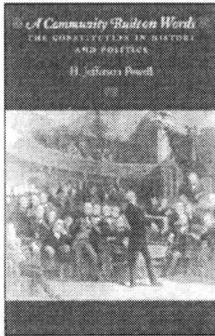
ISBN 0-226-99962-9 \$45.00 Cloth 350 p. November 2002

Sponsored by the Law & Economics Center of the George Mason University School of Law

The University of Chicago Press
11030 South Langley Avenue, Chicago, Illinois 60628
(773) 568-1550 JR 637

Law and Society

NEW FROM CHICAGO



A COMMUNITY BUILT ON WORDS

The Constitution in History and Politics

H. Jefferson Powell

"H. Jefferson Powell is one of the few constitutional scholars who takes seriously the wealth of extrajudicial interpretation of the Constitution. In his most ambitious effort to date, Powell presents a coherent picture of the Constitution as a living and meaningful guide to the limits of governmental action. *A Community Built on Words* is a resourceful, learned, and surefooted book that is a joy to read."—David P. Currie, author of *The Constitution in Congress*

CLOTH \$35.00

TOWARD A JUST WORLD

The Critical Years in the Search for International Justice

Dorothy V. Jones

"A vivid and compelling counter-narrative to the conventional account of twentieth-century power politics. Jones tells the story of the development of an idea: that reason can be brought to bear on the struggle for power and peace among nations. *Toward a Just World* introduces us to the previously neglected, unsung heroes of modern diplomacy. Read this book and meet the extraordinary men and women who responded to mass murder, genocide and political unrest to build new institutions—institutions designed to promote the peaceful resolution of conflict as well as the rights and dignity of every human person."—Joel H. Rosenthal, Carnegie Council on Ethics and International Affairs

CLOTH \$30.00

REFUSING CARE

Forced Treatment and the Rights of the Mentally Ill

Elyn R. Saks

"In this very original book, Professor Saks makes the best case to date for a libertarian approach to the imposition of treatment on people with mental illness. The first two chapters' exegesis on mental illness as a legal construct is the most highly nuanced in the literature, and Saks's work on competency, which permeates the book, is pathbreaking. She takes on the most pressing issues in 'civil' mental health law and ethics, and will likely provoke a new round of debate about the appropriate scope of government and professional power over people with mental illness. *Refusing Care* is articulate, engaging, and long overdue."—Christopher Slogobin, Levin College of Law, University of Florida

CLOTH \$35.00

Now in paper

THE CULTURE OF CONTROL

Crime and Social Order in Contemporary Society

David Garland

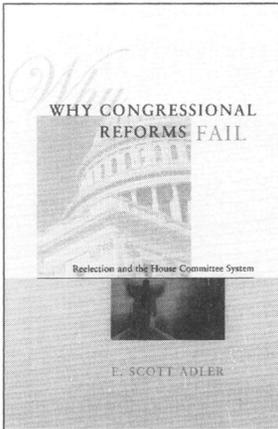
"This work serves as both a history of crime control policy debates as set in and shaped by the historical moments of the late twentieth century and a treatise on explanation and critique in socio-legal research; as such it should interest a wide array of scholars and command an important position in the field. . . . Goes far toward debunking more simplistic accounts for the rise of the sometimes bizarre new world of crime control that marks our time."—John Gilliom, *Law and Politics Book Review*

PAPER \$20.00

THE UNIVERSITY OF CHICAGO PRESS 1427 East 60th Street, Chicago, IL 60637 • www.press.uchicago.edu

Law and Society

NEW FROM CHICAGO



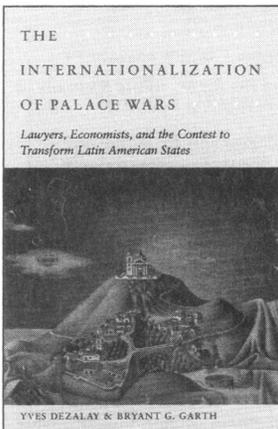
WHY CONGRESSIONAL REFORMS FAIL

Reelection and the House Committee System

E. Scott Adler

“Over the past few decades congressional scholars have identified what they believe to be fundamental changes in the nature of the House. It has become, in their view, much more partisan and much more ideological. *Why Congressional Reforms Fail* by Scott Adler argues instead that the high level of partisanship currently characterizing the House may have changed the reasons why committee reforms are resisted, but has in no way weakened that resistance.”—D. Roderick Kiewiet, California Institute of Technology

American Politics and Political Economy Series
Paper \$19.00



THE INTERNATIONALIZATION OF PALACE WARS

Lawyers, Economists, and the Contest to Transform Latin American States

YVES DEZALAY & BRYANT G. GARTH

THE INTERNATIONALIZATION OF PALACE WARS

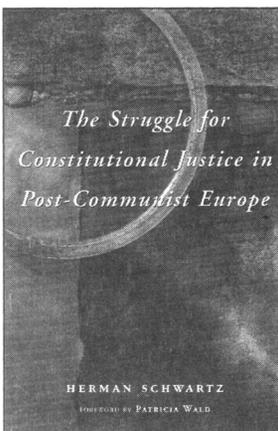
Lawyers, Economists, and the Contest to Transform Latin American States

Yves Dezalay and Bryant G. Garth

“An extraordinary book. A major contribution, it is original yet connected in multiple ways to several new research concerns and debates about law and globalization, the nature of the state today given globalization, and the formation of transnational elites.”—Saskia Sassen, author of *The Global City: New York, London, Tokyo*

Chicago Series in Law and Society
Paper \$22.00

Now in paper



The Struggle for Constitutional Justice in Post-Communist Europe

HERMAN SCHWARTZ

INTRODUCED BY PATRICIA WALD

THE STRUGGLE FOR CONSTITUTIONAL JUSTICE IN POST-COMMUNIST EUROPE

Constitutionalism in Eastern Europe

Herman Schwartz

“Those who are interested in understanding the behavior of constitutional courts in transitional regimes cannot afford to ignore this important book. . . . [It] is fecund with hypotheses of interest to political scientists, and we are indebted to Professor Schwartz for his comprehensive analysis.”—James L. Gibson, *Law and Politics Book Review*

Paper \$30.00

LECTURES ON JURISPRUDENCE

John Austin

Edited by Robert Campbell

A pupil of Jeremy Bentham, John Austin brought a rigorously analytical approach to jurisprudence, seeking to distinguish sharply between positive law and mere custom or morality; these two volumes present his comprehensive analysis of the principles underlying all legal systems.

Distributed for Thoemmes Press

1210 pages, 2 Volumes 1-85506-962-8
Cloth \$265.00

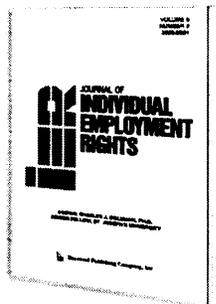


THE UNIVERSITY OF CHICAGO PRESS 1427 East 60th Street, Chicago, IL 60637 • www.press.uchicago.edu

Journal of **INDIVIDUAL EMPLOYMENT RIGHTS**

editor, CHARLES J. COLEMAN
associate editor, THEODORA T. HAYNES
manuscript editor, CLAIRE MEIROWITZ

editorial intent



One of the most rapidly evolving areas of employment law is that of individual employment rights. Employees are asserting newly found rights against their employers arising out of at-will employment erosion, binding commitments present in handbooks and employment policies, public policy violations, privacy intrusions, and so forth.

Individual employment rights is an area of employment law that has no clearly defined boundaries. The sources of these rights include federal and state constitutions, a multitude of employment statutes, and the common law. Its subject matter is equally varied, including such diverse matters as record keeping and disclosure, health and safety, fair employment practices, alcohol and drug abuse, AIDS, medical screening, employee surveillance, wage and hour standards, union-management relations, employment contracts, dispute resolution, etc.

The *Journal of Individual Employment Rights* is a peer-referred journal and its intent is to serve as a central source for addressing and researching these newly asserted rights as they are debated and developed by courts, academicians, legal practitioners, and human resource professionals. Its emphasis is on the theoretical as well as the practical by serving as a forum for the interchange of ideas and information for all individuals concerned with this developing area.

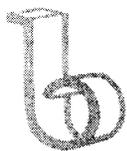
SUBSCRIPTION INFORMATION

ISSN: 1055-7512, Price per volume (4 issues yearly)

\$204.00 Institutional; \$60.00 Individual

Postage & handling: \$10.00 U.S. & Canada; \$18.00 elsewhere

Complimentary sample issue available upon request



BAYWOOD PUBLISHING COMPANY, INC.

26 Austin Avenue, PO Box 337, Amityville, NY 11701

phone (631) 691-1270 • fax (631) 691-1770

toll-free orderline (800) 638-7819

e-mail: baywood@baywood.com • web site: <http://baywood.com>

Law and Society

NEW FROM CHICAGO

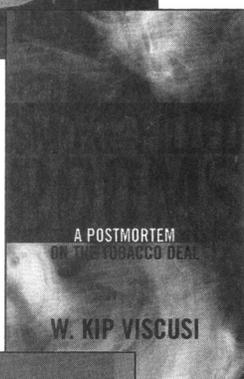


PUNITIVE DAMAGES

How Juries Decide

Cass R. Sunstein, Reid Hastie, John W. Payne, David A. Schkade, and W. Kip Viscusi

"*Punitive Damages* pulls together a series of important empirical findings and situates them within a policy and methodological framework. It is accessible to nonspecialists and will certainly appeal to academics interested in jury behavior, as well as policymakers considering the issue of punitive damages reform."—Christine M. Jolls, Harvard Law School
Cloth \$35.00



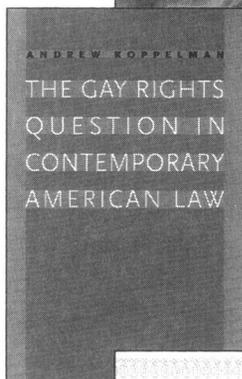
SMOKE-FILLED ROOMS

A Postmortem on the Tobacco Deal

W. Kip Viscusi

"Kip Viscusi argues that the nationwide [tobacco] settlement has proved an undeserved bonanza for the lawyers and a tax on the smokers used to fund the settlement. He raises fundamental questions of legal process by challenging the propriety of levying a large tax behind the scenes outside the political arena. He raises equally troublesome questions of social policy, by showing that the same states that vilified the industry to obtain their lavish settlements will collect their money only by keeping the industry alive. One can be thoroughly persuaded of the dangers of smoking and still be won by Viscusi's trenchant attack on the means and ends of the tobacco deal."—Richard Epstein, author of *Principles for a Free Society*

Studies in Law and Economics
Cloth \$27.50

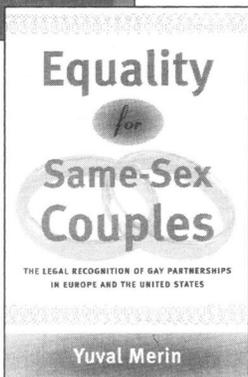


THE GAY RIGHTS QUESTION IN CONTEMPORARY AMERICAN LAW

Andrew Koppelman

"Andrew Koppelman is the academy's most distinguished defender of the view that discrimination against gays and lesbians violates our society's norms against sex discrimination. This book spells out the implications of his theory in lucid detail. The result is a careful, articulate, and fair-minded discussion of gay rights that people of all political persuasions can learn from."—Jack M. Balkin, Knight Professor of Constitutional Law and the First Amendment, Yale Law School

Paper \$17.00



EQUALITY FOR SAME-SEX COUPLES

The Legal Recognition of Gay Partnerships in Europe and the United States

Yuval Merin

"Well researched and argued. Merin grapples with a legal issue that is being raised more and more frequently in jurisdictions around the world. This book will meet a growing demand among lawyers and policy makers for more information and analysis relating to same-sex partnerships."

—Robert Wintemute, King's College London School of Law

Paper \$25.00



THE UNIVERSITY OF CHICAGO PRESS 1427 East 60th Street, Chicago, IL 60637 • www.press.uchicago.edu

American Bar Foundation

BOARD OF DIRECTORS

President, M. Peter Moser, of the Maryland Bar • *Vice-President*, Robert O. Hetlage, of the Missouri Bar • *Secretary*, Carrie Menkel-Meadow, Georgetown University Law Center • *Treasurer*, David E. Van Zandt, of the Illinois Bar

Jacqueline Allee, of the Florida Bar • James H. Carter, of the New York Bar • Leonard H. Gilbert, of the Florida Bar • Martin D. Ginsburg, of the District of Columbia Bar • Herma Hill Kay, University of California at Berkeley School of Law • Myles V. Lynk, Arizona State University College of Law • Richard Peña, of the Texas Bar • Wilma J. Pinder, of the California Bar • David K.Y. Tang, of the Washington Bar • Elizabeth R. Koller Whittenbury, of the California Bar

ex officio:

A.P. Carlton, Jr., President, American Bar Association • Dennis W. Archer, President-Elect, American Bar Association • H. Thomas Wells, Chair, House of Delegates, American Bar Association • Allan J. Joseph, Treasurer, American Bar Association • William C. Hubbard, President, American Bar Endowment • Hilarie F. Bass, Chair, Council of the Fund for Justice Education • Thomas A. Clancy, Chair, The Fellows of the American Bar Foundation • Steven T. Walther, Vice-Chair, The Fellows of the American Bar Foundation • James R. Silkenat, Secretary, The Fellows of the American Bar Foundation

OFFICERS

Bryant G. Garth, *Director*
Abbie Willard, *Director of External Affairs*

Joanne Martin, *Associate Director*

RESEARCH FELLOWS

Jonathan D. Casper, Ph.D., Yale University
John L. Comaroff, Ph.D., University of London
Stephen Daniels, Ph.D., University of Wisconsin
Shari S. Diamond, Ph.D., Northwestern University; J.D., University of Chicago
Bryant G. Garth, J.D., Stanford University; Ph.D., European University Institute
Austan Goolsbee, Ph.D., Massachusetts Institute of Technology
Michael Greenstone, Ph.D., Princeton University
John Hagan, Ph.D., University of Alberta
Terence C. Halliday, Ph.D., University of Chicago
James J. Heckman, Ph.D., Princeton University
Carol A. Heimer, Ph.D., University of Chicago
John P. Heinz, LL.B., Yale University
Bonnie Honig, Ph.D., Johns Hopkins University

Steven D. Levitt, Ph.D., Massachusetts Institute of Technology
Tracey Meares, J.D., University of Chicago
Elizabeth Mertz, J.D., Northwestern University; Ph.D., Duke University
Janice Nadler, J.D., University of California at Berkeley; Ph.D., University of Illinois
Robert L. Nelson, J.D., Ph.D., Northwestern University
Laura Beth Nielsen, J.D., Ph.D., University of California at Berkeley
William Novak, Ph.D., Brandeis University
Victoria Saker Woeste, Ph.D., University of California at Berkeley
Susan P. Shapiro, Ph.D., Yale University
Christopher L. Tomlins, Ph.D., Johns Hopkins University

LIAISON RESEARCH SERVICES PROGRAM

Joanne Martin, M. M., Northwestern University, J.D. Loyola University
Barbara A. Curran, LL.B., University of Connecticut; LL.M., Yale University
Clara Carson, B.S., Roosevelt University

Law & Social Inquiry

Volume 28, Number 1, Winter 2003

ARTICLES

Victorious Transsexuals in the Courtroom: A Challenge for Feminist Legal Theory

ANNA KIRKLAND

Negotiating the Boundaries of Crime and Culture: A Sociolegal Perspective on Cultural Defense Strategies

KAY L. LEVINE

Bushwhacking the Ethical High Road: Conflict of Interest in the Practice of Law and Real Life

SUSAN P. SHAPIRO

REVIEW ESSAYS

Searching for Worlds beyond the Canon: Narrative, Rhetoric, and Legal Change

SUSAN BANDES

Risk, Insurance, and the Changing Nature of Mutual Obligation

BRIAN J. GLENN

Contextualizing Bias Crimes: A Social and Theoretical Perspective

ALEXANDER TESIS

BOOK NOTES



0897-6546(200324)28:1;1-Q