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The American Revolution In the Law

*Anglo-American Jurisprudence before
John Marshall*



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The American Revolution In The Law Shannon C. Stimson, 1990-06-18 This study of the political and legal thought of the American Revolution and founding period explores the differences in the perceptions of judicial and jural power that characterized the conditions of law in late 18th century America as compared to her British counterparts

The American Revolution In the Law Shannon C. Stimson, 2014-07-14 In 1773 John Adams observed that one source of tension in the debate between England and the colonies could be traced to the different conceptions each side had of the terms legally and constitutionally different conceptions that were as Shannon Stimson here demonstrates symptomatic of deeper jurisprudential political and even epistemological differences between the two governmental outlooks This study of the political and legal thought of the American revolution and founding period explores the differences between late eighteenth century British and American perceptions of the judicial and jural power In Stimson's book which will interest both historians and theorists of law and politics the study of colonial juries provides an incisive tool for organizing interpreting and evaluating various strands of American political theory and for challenging the common assumption of a basic unity of vision of the roots of Anglo American jurisprudence The author introduces an original concept that of judicial space to account for the development of the highly political role of the Supreme Court a judicial body that has no clear counterpart in English jurisprudence Originally published in 1990 The Princeton Legacy Library uses the latest print on demand technology to again make available previously out of print books from the distinguished backlist of Princeton University Press These editions preserve the original texts of these important books while presenting them in durable paperback and hardcover editions The goal of the Princeton Legacy Library is to vastly increase access to the rich scholarly heritage found in the thousands of books published by Princeton University Press since its founding in 1905

The Oxford Handbook of the American Revolution Edward G. Gray, Jane Kamensky, 2015 The Oxford Handbook of the American Revolution introduces scholars students and generally interested readers to the formative event in American history In thirty three individual essays the Handbook provides readers with in depth analysis of the Revolution's many sides

The Documentary History of the Supreme Court of the United States, 1789-1800 Maeva Marcus, 1992 Volume 4 assembles a selection of documents illustrating the statutory development of the federal judiciary from 1789-1800 Beginning with a narrative essay on the background of Article III of the Constitution the volume tracks from the First through the Sixth Congresses all the major and minor legislation relevant to the establishment of the American judicial system As the decade unfolded experience revealed problems with the system as it was initially structured and efforts were made to change it Dissatisfaction with circuit riding with the method of juror selection and with judges undertaking duties not strictly judicial for example led to various legislative attempts at reform

Defending the Jury Laura I Appleman, 2015-04-09 This book sets forth a new approach to twenty first century criminal justice and punishment one that fully involves the community providing a better way to make

our criminal process more transparent and inclusive Using the prism of the Sixth Amendment community jury trial this book offers fresh and much needed ways to incorporate the citizenry into the procedures of criminal justice thereby resulting in greater investment and satisfaction in the system It exposes the various challenges the American criminal justice system faces because of its ongoing failure to integrate the community s voice Ultimately the people s right to participate in the criminal justice system through the criminal jury a right that is all too often overlooked is essential to truly legitimizing the criminal process and ensuring its democratic nature The Other Founders Saul Cornell,2012-12-01 Fear of centralized authority is deeply rooted in American history The struggle over the U S Constitution in 1788 pitted the Federalists supporters of a stronger central government against the Anti Federalists the champions of a more localist vision of politics But argues Saul Cornell while the Federalists may have won the battle over ratification it is the ideas of the Anti Federalists that continue to define the soul of American politics While no Anti Federalist party emerged after ratification Anti Federalism continued to help define the limits of legitimate dissent within the American constitutional tradition for decades Anti Federalist ideas also exerted an important influence on Jeffersonianism and Jacksonianism Exploring the full range of Anti Federalist thought Cornell illustrates its continuing relevance in the politics of the early Republic A new look at the Anti Federalists is particularly timely given the recent revival of interest in this once neglected group notes Cornell Now widely reprinted Anti Federalist writings are increasingly quoted by legal scholars and cited in Supreme Court decisions clear proof that their authors are now counted among the ranks of America s founders **An Historical Introduction to Western Constitutional Law** R. C. van Caenegem,1995-03-23 Professor van Caenegem s new book addresses fundamental questions of constitutional organization democracy versus autocracy unitary versus federal organization pluralism versus intolerance by analyzing different models of constitutional government through a historical perspective The approach is chronological constitutionalism is explained as the result of many centuries of trial and error through a narrative that begins in the early Middle Ages and concludes with contemporary debates focusing on Europe the United States and the Soviet Union

Radical Enfranchisement in the Jury Room and Public Life Sonali Chakravarti,2020-01-24 Juries have been at the center of some of the most emotionally charged moments of political life At the same time their capacity for legitimate decision making has been under scrutiny because of events like the acquittal of George Zimmerman by a Florida jury for the shooting of Trayvon Martin and the decisions of several grand juries not to indict police officers for the killing of unarmed black men Meanwhile the overall use of juries has also declined in recent years with most cases settled or resolved by plea bargain With Radical Enfranchisement in the Jury Room and Public Life Sonali Chakravarti offers a full throated defense of juries as a democratic institution She argues that juries provide an important site for democratic action by citizens and that their use should be revived The jury Chakravarti argues could be a forward looking institution that nurtures the best democratic instincts of citizens but this requires a change in civic education regarding the skills that should be cultivated in jurors before

and through the process of a trial Being a juror perhaps counterintuitively can guide citizens in how to be thoughtful rule breakers by changing their relationship to their own perceptions and biases and by making options for collective action salient but they must be better prepared and instructed along the way *Law's Imagined Republic* Steven Wilf,2010-04-19 Law's Imagined Republic shows how the American Revolution was marked by the rapid proliferation of law talk across the colonies This legal language was both elite and popular spanned different forms of expression from words to rituals and included simultaneously real and imagined law Since it was employed to mobilize resistance against England the proliferation of revolutionary legal language became intimately intertwined with politics Drawing on a wealth of material from criminal cases Steven Wilf reconstructs the intertextual ways Americans from the 1760s through the 1790s read law reading one case against another and often self consciously comparing transatlantic legal systems as they thought about how they might construct their own legal system in a new republic What transformed extraordinary tales of crime into a political forum How did different ways of reading or speaking about law shape our legal origins And ultimately how might excavating innovative approaches to law in this formative period which were constructed in the street as well as in the courtroom alter our usual understanding of contemporary American legal institutions Law's Imagined Republic tells the story of the untidy beginnings of American law

Constituent Moments Jason Frank,2010-01-04 An argument that the people the legitimate ground of public authority in the United States are not a coherent or sanctioned collective rather they exist as an effect of successful claims to speak on their behalf

The Law of Nations in Early American Foreign Policy Willem Theo Oosterveld,2016-01-12 In The Law of Nations in Early American Foreign Policy Willem Theo Oosterveld provides the first general study of international law as interpreted and applied by the generation of the Founding Fathers A mostly neglected aspect in the historiography of the early republic this study argues that international law was in fact an integral part of the Revolutionary creed Taking the reader from colonial debates about the law of nations to the discussions about slavery in the early 19th century this study shows the zest of the Founders to conduct foreign policy on the basis of treatises such as Vattel's The Law of Nations But it also highlights the deep ambiguities and sometimes personal struggles that arose when applying international law

Lawyers and the Rule of Law Andrew Boon,2022-10-20 This book examines lawyers contributions to creating and maintaining the rule of law one of the pillars of a liberal democracy It moves from the European Enlightenment to the modern day exploring the role of judges government lawyers and private practitioners in creating defining and being defined by the demands of modern society The book is divided into 4 parts representing the big themes The first part considers lawyers contribution to the growth of constitutionalism the second the formulation of roles and identities and the third the formation of values The fourth part focuses on the challenges faced by lawyers and the rule of law in the past 50 years the neoliberal period and how they challenge both conceptions of lawyers and the rule of law Each part is illustrated by defining events from the execution of Charles I through the Nuremberg Trials to the insurrection by supporters of Donald

Trump in January 2021 Although the focus is on England and Wales parallel developments in other jurisdictions Australia Canada New Zealand and the USA are considered This allows analysis of lawyers historical and contemporary engagement with the rule of law in jurisdictional systems based on the Common Law Each chapter is thematic but the passage through the book is broadly chronological

Crime, Histoire et Sociétés, 2000/1 Association internationale d'histoire du crime et de la justice criminelle, Reconstructing the Commercial Republic Stephen L. Elkin, 2015-01-16 James Madison is the thinker most responsible for laying the groundwork of the American commercial republic But he did not anticipate that the propertied class on which he relied would become extraordinarily politically powerful at the same time as its interests narrowed This and other flaws argues Stephen L Elkin have undermined the delicately balanced system he constructed In Reconstructing the Commercial Republic Elkin critiques the Madisonian system revealing which of its aspects have withstood the test of time and which have not The deficiencies Elkin points out provide the starting point for his own constitutional theory of the republic a theory that unlike Madison s lays out a substantive conception of the public interest that emphasizes the power of institutions to shape our political economic and civic lives Elkin argues that his theory should guide us toward building a commercial republic that is rooted in a politics of the public interest and the self interest of the middle class He then recommends specific reforms to create this kind of republic asserting that Americans today can still have the lives a commercial republic is intended to promote lives with real opportunities for economic prosperity republican political self government and individual liberty

Government by Dissent Robert W.T. Martin, 2013-07-01 The most thorough examination we have of how early Americans wrestled with what types of political dissent should be permitted even promoted in the new republic they were forming Martin shows the modern relevance of their debates in ways that all will find valuable even those who dissent from his views Rogers M Smith Christopher H Browne Distinguished Professor of Political Science University of Pennsylvania We generally think of democracy as government by consent a government of by and for the people We commonly downplay or even denigrate the role of dissent in democratic governments But in Government by Dissent Robert W T Martin explores the idea that the people most important in a flourishing democracy are those who challenge the status quo The American political radicals of the 1790s understood articulated and defended the crucial necessity of dissent to democracy Dissent has rarely been the mainstream of democratic politics But the figures explored here forgotten farmers as well as revered framers understood that dissent is always the essential undercurrent of democracy and is often the critical crosscurrent Only by returning to their political insights can we hope to reinvigorate our own popular politics Robert W T Martin is Professor of Government and Chair of the Government Department at Hamilton College His works include The Free and Open Press The Founding of American Democracy Press Liberty 1640 1800 2001 and The Many Faces of Alexander Hamilton co edited with Douglas Ambrose 2006 both from NYU Press

From Treason to Runaway Slaves Linda Myrsiades, 2023-11-20 Law in early America was culturally special not just a foundation for history

but for the culture that bound the nation and its collective identity From Treason to Runaway Slaves studies six high profile trials military order Indian murder land seizure treason libel interracial urban crime that incorporate themes to which the early republic attached special significance The trials demonstrate the criticality of legal culture and legal history and the central role of the rule of law in a democracy Tracking the new nation s bitterest and most challenging moments we are led to ask what lies below the surface what is American society really like how did we come to be who we are The book fits into the area of eighteenth century legal culture and history tracing across the chapters the development of early American law during the critical formative period 1783 to 1808 and focusing on important historical moments courts martial in the American Revolution the Whiskey Rebellion the Philadelphia Yellow Fever epidemic runaway slaves among others It attends to such areas of law as treason libel land law murder and racial justice as well as the growth of a legal profession and the changing influence of judges juries and lawyers

American Politicians Confront the Court Stephen M. Engel, 2011-06-13 Politicians have long questioned or even been openly hostile to the legitimacy of judicial authority but that authority seems to have become more secure over time What explains the recurrence of hostilities and yet the security of judicial power Addressing this question anew Stephen Engel points to the gradual acceptance of dissenting views of the Constitution that is the legitimacy and loyalty of stable opposition Politicians changing perception of the threat posed by opposition influenced how manipulations of judicial authority took shape Engel s book brings our understanding of these manipulations into line with other developments such as the establishment of political parties the acceptance of loyal opposition the development of different modes of constitutional interpretation and the emergence of rights based pluralism

Backcountry Democracy and the Whiskey Insurrection Linda Myrsiades, 2024-04-15 Backcountry Democracy and the Whiskey Insurrection treats the legal culture that informed the Whiskey Rebellion of 1794 and its trials Linda Myrsiades examines conflicts between state and federal courts and the judicial philosophy of Federalist judges as well as grand jury charges law reports judges bench notes and defense notes for the trials to develop a portrait of the hegemony of official interpretations of the law At the same time the book illuminates popular attitudes about the courts and the law and explores the nature of extralegal courts operated by the people Myrsiades captures the agitation propaganda efforts mounted by rebel communities and groups together with petitions and speeches in the rebel assemblies in demonstrating that popular culture offered a clear politico legal justification within the rebel movement on the unofficial side of legal culture Myrsiades thus presents a holistic picture of the legal culture of the rebellion Her examination denies the common perception that the rebel movement was incoherent and chaotic and presents an alternative view that its perceptions are a necessary correlative to understanding how treason law functioned and what its critical elements were in the late eighteenth century serving as a lesson for democracy in the present era

Judges and Unjust Laws Douglas E. Edlin, 2010-07-22 With keen insight into the common law mind Edlin argues that there are rich resources within the law for judges to ground their opposition to

morally outrageous laws and a legal obligation on them to overturn it consequent on the general common law obligation to develop the law Thus seriously unjust laws pose for common law judges a dilemma within the law not just a moral challenge to the law a conflict of obligations not just a crisis of conscience While rooted firmly in the history of common law jurisprudence Edlin offers an entirely fresh perspective on an age old jurisprudential conundrum Edlin s case for his thesis is compelling Gerald J Postema Cary C Boshamer Professor of Philosophy and Professor of Law University of North Carolina at Chapel Hill and author of Bentham and the Common Law Tradition Douglas Edlin builds a powerful historical conceptual and moral case for the proposition that judges on common law grounds should refuse to enforce unjust legislation This is sure to be controversial in an age in which critics already excoriate judges for excessive activism when conducting constitutional judicial review Edlin s challenge to conventional views is bold and compelling Brian Z Tamanaha Chief Judge Benjamin N Cardozo Professor of Law St John s University and author of Law as a Means to an End Threat to the Rule of Law Professor Edlin s fascinating and well researched distinction between constitutional review and common law review should influence substantially both scholarship on the history of judicial power in the United States and contemporary jurisprudential debates on the appropriate use of that power Mark Graber Professor of Law and Government University of Maryland and author of Dred Scott and the Problem of Constitutional Evil Is a judge legally obligated to enforce an unjust law In Judges and Unjust Laws Douglas E Edlin uses case law analysis legal theory constitutional history and political philosophy to examine the power of judicial review in the common law tradition He finds that common law tradition gives judges a dual mandate to apply the law and to develop it There is no conflict between their official duty and their moral responsibility Consequently judges have the authority perhaps even the obligation to refuse to enforce laws that they determine unjust As Edlin demonstrates exploring the problems posed by unjust laws helps to illuminate the institutional role and responsibilities of common law judges Douglas E Edlin is Associate Professor of Political Science at Dickinson College

Thomas Jefferson, Legal History, and the Art of Recollection Matthew Crow, 2017-03-17 Through his discussion of Thomas Jefferson historian Matthew Crow offers a new perspective on constitutional transformation in early American history

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