

A Matter Of Interpretation

Statutory Construction and Interpretation .2010-06-15 This book reviews the primary rules courts apply to discern a statute's meaning. However, each matter of interpretation before a court presents its own challenges, and there is no unified, systematic approach used in all cases. While schools of statutory interpretation may vary on what factors should be considered, all approaches start (if not necessarily end) with the language and structure of the statute itself. In analyzing a statute's text, courts are guided by the basic principle that a statute should be read as a harmonious whole, with its separate parts being interpreted within their broader statutory context.

A Matter of Interpretation: Federal Courts and the Law Antonin Scalia.1998-07-27 We are all familiar with the image of the immensely clever judge who discerns the best rule of common law for the case at hand. According to U.S. Supreme Court Justice Antonin Scalia, a judge like this can maneuver through earlier cases to achieve the desired aim--distinguishing one prior case on his left, straight-arming another one on his right, high-stepping away from another precedent about to tackle him from the rear, until (bravo!) he reaches the goal--good law. But is this common-law mindset, which is appropriate in its place, suitable also in statutory and constitutional interpretation? In a witty and trenchant essay, Justice Scalia answers this question with a resounding negative. In exploring the neglected art of statutory interpretation, Scalia urges that judges resist the temptation to use legislative intention and legislative history. In his view, it is incompatible with democratic government to allow the meaning of a statute to be determined by what the judges think the

lawgivers meant rather than by what the legislature actually promulgated. Eschewing the judicial lawmaking that is the essence of common law, judges should interpret statutes and regulations by focusing on the text itself. Scalia then extends this principle to constitutional law. He proposes that we abandon the notion of an everchanging Constitution and pay attention to the Constitution's original meaning. Although not subscribing to the strict constructionism that would prevent applying the Constitution to modern circumstances, Scalia emphatically rejects the idea that judges can properly smuggle in new rights or deny old rights by using the Due Process Clause, for instance. In fact, such judicial discretion might lead to the destruction of the Bill of Rights if a majority of the judges ever wished to reach that most undesirable of goals. This essay is followed by four commentaries by Professors Gordon Wood, Laurence Tribe, Mary Ann Glendon, and Ronald Dworkin, who engage Justice Scalia's ideas about judicial interpretation from varying standpoints. In the spirit of debate, Justice Scalia responds to these critics.

To Secure These Rights Scott Douglas Gerber.1996-09 From the opening chapter's bold revision of the character of the American Revolution to the closing chapter's provocative reinterpretation of many of the most famous cases in Supreme Court history, this book demonstrates the importance of approaching constitutional interpretation from more than one discipline. Indeed, Gerber's analysis reveals that the Constitution cannot be properly understood without recourse to history, political philosophy, and law.

An Economic Interpretation of the Constitution of the United States Charles A. Beard.2012-03-08 This classic study — one of the most influential in the area of American economic history — questioned the founding fathers' motivations and prompted new perceptions of the supreme law of the land.

Constitutional Interpretation Keith E. Whittington.1999 Constitutional interpretation -- The dilemmas of contemporary constitutional theory -- The authority of originalism and the nature of the written Constitution -- A defense of originalism and the written Constitution -- Popular sovereignty and originalism -- The nature and limits of originalist jurisprudence.

The Essential Scalia Antonin Scalia.2020-09-15 Supreme Court Justice Antonin Scalia in his own words: the definitive collection of his opinions, speeches, and articles on the most essential and vexing legal questions, with an intimate foreword by Justice Elena Kagan “[Scalia’s writings] are as readable today as they were when they first appeared. . . . Especially illuminating to anyone who wants to unlock the mystery of why Ginsburg admired Scalia—or who wants to get a sense of where the Supreme Court may be headed.”—The Wall Street Journal A justice on the United States Supreme Court for three decades, Antonin Scalia transformed the way that judges, lawyers, and citizens think about the law. The Essential Scalia presents Justice Scalia on his own terms, allowing readers to understand the reasoning and insights that made him one of the most consequential jurists in American history. Known for his forceful intellect and remarkable wit, Scalia mastered the art of writing in a way that both educated and entertained. This comprehensive collection draws from the best of Scalia’s opinions, essays, speeches, and testimony to paint a complete and nuanced portrait of his jurisprudence. This compendium addresses the hot-button issues of the times, from abortion and the right to bear arms to marriage, free speech, religious liberty, and so much more. It also presents the justice’s wise insights on perennial debates over the structure of government created by our Constitution and the proper methods for interpreting our laws. Brilliant and passionately argued, The Essential Scalia is an indispensable resource for anyone who wants to understand our Constitution, the American legal system, and one of our nation’s most influential and

highly regarded jurists and thinkers.

Matter of Interpretation Ronald Et Al Dworkin.1997-01-01

A Matter of Interpretation Antonin Scalia,Amy Gutmann.1998 In a witty and trenchant essay, Justice Scalia urges judges to resist the temptation to use legislative intention and legislative history, admonishing them instead to focus on the text of the case itself. Includes responses by Gordon Wood, Laurence Tribe, Ronald Dworkin, and Mary Ann Glendon.

Modern Statutory Interpretation Linda D. Jellum,David Charles Hricik.2009 This book is designed to teach statutory interpretation skills. It uses a combination of traditional cases along with problems to accomplish that objective. Broadly organized around the process of interpretation, it focuses first on the plain meaning of the text and then addresses the question of whether and, if so, when courts will examine sources other than the text. The book addresses the various approaches and theories to interpretation and examines how those approaches have been applied to particular interpretative problems, such as implied rights, administrative interpretations, and the interpretation of uniform statutes. Within each chapter, subjects are introduced with concise summaries of the core concepts. After the introduction, a well-edited case explores the uncertainties and boundaries of those core concepts. The notes and questions following each principal case are designed to help focus the students' thoughts and understanding of the case before they come to class. Finally, problems are included to ensure that the students use the statutory interpretation skills they have just learned. Each problem lends itself to at least two arguments (often more) and allows for further inquiry into the concepts in the chapter. The second edition has been revised and updated to include more problems and a few new cases. Additionally, the legislative and administrative chapters have been substantially revised. An electronic Teacher's Manual is available. To request the file, please email

crutan (at) cap-press (dot) com.

Active Liberty Stephen Breyer.2007-12-18 A brilliant new approach to the Constitution and courts of the United States by Supreme Court Justice Stephen Breyer.For Justice Breyer, the Constitution's primary role is to preserve and encourage what he calls "active liberty": citizen participation in shaping government and its laws. As this book argues, promoting active liberty requires judicial modesty and deference to Congress; it also means recognizing the changing needs and demands of the populace. Indeed, the Constitution's lasting brilliance is that its principles may be adapted to cope with unanticipated situations, and Breyer makes a powerful case against treating it as a static guide intended for a world that is dead and gone. Using contemporary examples from federalism to privacy to affirmative action, this is a vital contribution to the ongoing debate over the role and power of our courts.

Keeping Faith with the Constitution Goodwin Liu,Pamela S. Karlan,Christopher H. Schroeder.2010-08-05 Chief Justice John Marshall argued that a constitution requires that only its great outlines should be marked [and] its important objects designated. Ours is intended to endure for ages to come, and consequently, to be adapted to the various crises of human affairs. In recent years, Marshall's great truths have been challenged by proponents of originalism and strict construction. Such legal thinkers as Supreme Court Justice Antonin Scalia argue that the Constitution must be construed and applied as it was when the Framers wrote it. In Keeping Faith with the Constitution, three legal authorities make the case for Marshall's vision. They describe their approach as constitutional fidelity--not to how the Framers would have applied the Constitution, but to the text and principles of the Constitution itself. The original understanding of the text is one source of interpretation, but not the only one; to preserve the meaning and authority of the

document, to keep it vital, applications of the Constitution must be shaped by precedent, historical experience, practical consequence, and societal change. The authors range across the history of constitutional interpretation to show how this approach has been the source of our greatest advances, from *Brown v. Board of Education* to the New Deal, from the *Miranda* decision to the expansion of women's rights. They delve into the complexities of voting rights, the malapportionment of legislative districts, speech freedoms, civil liberties and the War on Terror, and the evolution of checks and balances. The Constitution's framers could never have imagined DNA, global warming, or even women's equality. Yet these and many more realities shape our lives and outlook. Our Constitution will remain vital into our changing future, the authors write, if judges remain true to this rich tradition of adaptation and fidelity.

Interpreting Constitutions Jeffrey Goldsworthy. 2006-02-09 This book describes the constitutions of six major federations and how they have been interpreted by their highest courts, compares the interpretive methods and underlying principles that have guided the courts, and explores the reasons for major differences between these methods and principles. Among the interpretive methods discussed are textualism, purposivism, structuralism and originalism. Each of the six federations is the subject of a separate chapter written by a leading authority in the field: Jeffrey Goldsworthy (Australia), Peter Hogg (Canada), Donald Kommers (Germany), S.P. Sathe (India), Heinz Klug (South Africa), and Mark Tushnet (United States). Each chapter describes not only the interpretive methodology currently used by the courts, but the evolution of that methodology since the constitution was first enacted. The book also includes a concluding chapter which compares these methodologies, and attempts to explain variations by reference to different social, historical, institutional and political circumstances.

LEGISLATING STATUTORY INTERPRETATION CHRISTOPHER. HUNT.2018

Philosophy of Law: A Very Short Introduction Raymond Wacks.2014-02-27 The concept of law lies at the heart of our social and political life. Legal philosophy, or jurisprudence, explores the notion of law and its role in society, illuminating its meaning and its relation to the universal questions of justice, rights, and morality. In this Very Short Introduction Raymond Wacks analyses the nature and purpose of the legal system, and the practice by courts, lawyers, and judges. Wacks reveals the intriguing and challenging nature of legal philosophy with clarity and enthusiasm, providing an enlightening guide to the central questions of legal theory. In this revised edition Wacks makes a number of updates including new material on legal realism, changes to the approach to the analysis of law and legal theory, and updates to historical and anthropological jurisprudence. ABOUT THE SERIES: The Very Short Introductions series from Oxford University Press contains hundreds of titles in almost every subject area. These pocket-sized books are the perfect way to get ahead in a new subject quickly. Our expert authors combine facts, analysis, perspective, new ideas, and enthusiasm to make interesting and challenging topics highly readable.

Law, Interpretation and Reality P.J. Nerhot.2013-04-17 PATRICKNERHOT Since the two operations overlap each other so much, speaking about fact and interpretation in legal science separately would undoubtedly be highly artificial. To speak about fact in law already brings in the operation we call interpretation. Equally, to speak about interpretation is to deal with the method of identifying reality and therefore, in large part, to enter the area of the question of fact. By way of example, Bernard Jackson's text, which we have placed in section 11 of the first part of this volume, could no doubt just as well have found a home in section I. This work is aimed at analyzing this interpretation of the operation of identifying fact on the one hand and identifying the meaning of a

text on the other. All philosophies of law recognize themselves in the analysis they propose for this interpretation, and we too shall seek in this volume to furnish a few elements of use for this analysis. We wish however to make it clear that our endeavour is addressed not only to legal philosophers: the nature of the interpretive act in legal science is a matter of interest to the legal practitioner too. He will find in these pages, we believe, elements that will serve him in reflection on his daily work. *A Common Law for the Age of Statutes* Guido Calabresi.2009-07-01 The dominance of legislatures and statutory law has put an impossible burden on the courts. Guido Calabresi thinks it is time for this country seriously to consider returning to a traditional American judicial-legislative balance in which courts would enlarge the common law and would also decide when a rule of law has seen its day and should be revised.

A Matter of Interpretation Antonin Scalia.2018-01-30 We are all familiar with the image of the immensely clever judge who discerns the best rule of common law for the case at hand. According to U.S. Supreme Court Justice Antonin Scalia, a judge like this can maneuver through earlier cases to achieve the desired aim—“distinguishing one prior case on his left, straight-arming another one on his right, high-stepping away from another precedent about to tackle him from the rear, until (bravo!) he reaches the goal—good law. But is this common-law mindset, which is appropriate in its place, suitable also in statutory and constitutional interpretation? In a witty and trenchant essay, Justice Scalia answers this question with a resounding negative. In exploring the neglected art of statutory interpretation, Scalia urges that judges resist the temptation to use legislative intention and legislative history. In his view, it is incompatible with democratic government to allow the meaning of a statute to be determined by what the judges think the lawgivers meant rather than by what the legislature actually promulgated. Eschewing the judicial lawmaking that is the essence of

common law, judges should interpret statutes and regulations by focusing on the text itself. Scalia then extends this principle to constitutional law. He proposes that we abandon the notion of an everchanging Constitution and pay attention to the Constitution's original meaning. Although not subscribing to the "strict constructionism" that would prevent applying the Constitution to modern circumstances, Scalia emphatically rejects the idea that judges can properly "smuggle" in new rights or deny old rights by using the Due Process Clause, for instance. In fact, such judicial discretion might lead to the destruction of the Bill of Rights if a majority of the judges ever wished to reach that most undesirable of goals. This essay is followed by four commentaries by Professors Gordon Wood, Laurence Tribe, Mary Ann Glendon, and Ronald Dworkin, who engage Justice Scalia's ideas about judicial interpretation from varying standpoints. In the spirit of debate, Justice Scalia responds to these critics. Featuring a new foreword that discusses Scalia's impact, jurisprudence, and legacy, this witty and trenchant exchange illuminates the brilliance of one of the most influential legal minds of our time.

Making Your Case Antonin Scalia, Bryan A. Garner. 2008 In their professional lives, courtroom lawyers must do these two things well: speak persuasively and write persuasively. In this noteworthy book, two noted legal writers systematically present every important idea about judicial persuasion in a fresh, entertaining way. The book covers the essentials of sound legal reasoning, including how to develop the syllogism that underlies any argument. From there the authors explain the art of brief writing, especially what to include and what to omit, so that you can induce the judge to focus closely on your arguments. Finally, they show what it takes to succeed in oral argument.

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U.S. Supreme Court Justice Antonin Scalia, a judge like this can maneuver through earlier cases to achieve the desired aim—distinguishing one prior case on his left, straight-arming another one on his right, high-stepping away from another precedent about to tackle him from the rear, until (bravo!) he reaches the goal—good law. But is this common-law mindset, which is appropriate in its place, suitable also in statutory and constitutional interpretation? In a witty and trenchant essay, Justice Scalia answers this question with a resounding negative. In exploring the neglected art of statutory interpretation, Scalia urges that judges resist the temptation to use legislative intention and legislative history. In his view, it is incompatible with democratic government to allow the meaning of a statute to be determined by what the judges think the lawgivers meant rather than by what the legislature actually promulgated. Eschewing the judicial lawmaking that is the essence of common law, judges should interpret statutes and regulations by focusing on the text itself. Scalia then extends this principle to constitutional law. He proposes that we abandon the notion of an everchanging Constitution and pay attention to the Constitution's original meaning. Although not subscribing to the “strict constructionism” that would prevent applying the Constitution to modern circumstances, Scalia emphatically rejects the idea that judges can properly “smuggle” in new rights or deny old rights by using the Due Process Clause, for instance. In fact, such judicial discretion might lead to the destruction of the Bill of Rights if a majority of the judges ever wished to reach that most undesirable of goals. This essay is followed by four commentaries by Professors Gordon Wood, Laurence Tribe, Mary Ann Glendon, and Ronald Dworkin, who engage Justice Scalia’s ideas about judicial interpretation from varying standpoints. In the spirit of debate, Justice Scalia responds to these critics. Featuring a new foreword that discusses Scalia’s impact, jurisprudence, and legacy, this witty and trenchant exchange illuminates the brilliance of one of the most influential legal minds

of our time.

Hermeneutics John D. Caputo.2018-01-25 Is anything ever not an interpretation? Does interpretation go all the way down? Is there such a thing as a pure fact that is interpretation-free? If not, how are we supposed to know what to think and do? These tantalizing questions are tackled by renowned American thinker John D Caputo in this wide-reaching exploration of what the traditional term 'hermeneutics' can mean in a postmodern, twenty-first century world. As a contemporary of Derrida's and longstanding champion of rethinking the disciplines of theology and philosophy, for decades Caputo has been forming alliances across disciplines and drawing in readers with his compelling approach to what he calls radical hermeneutics. In this new introduction, drawing upon a range of thinkers from Heidegger to the Parisian 1968ers and beyond, he raises a series of probing questions about the challenges of life in the postmodern and maybe soon to be 'post-human' world.' *The Limits of Interpretation* Umberto Eco.1994 Presents four theories describing the limits of literary interpretation, challenging the cancer of uncontrolled interpretation that diminishes the meaning and the basis of communication. -- Back cover.

The Living Constitution David A. Strauss.2010-05-19 Supreme Court Justice Antonin Scalia once remarked that the theory of an evolving, living Constitution effectively rendered the Constitution useless. He wanted a dead Constitution, he joked, arguing it must be interpreted as the framers originally understood it. In *The Living Constitution*, leading constitutional scholar David Strauss forcefully argues against the claims of Scalia, Clarence Thomas, Robert Bork, and other originalists, explaining in clear, jargon-free English how the Constitution can sensibly evolve, without falling into the anything-goes flexibility caricatured by opponents. The living Constitution is not an out-of-touch liberal theory, Strauss further shows, but a mainstream tradition of American jurisprudence--a

common-law approach to the Constitution, rooted in the written document but also based on precedent. Each generation has contributed precedents that guide and confine judicial rulings, yet allow us to meet the demands of today, not force us to follow the commands of the long-dead Founders. Strauss explores how judicial decisions adapted the Constitution's text (and contradicted original intent) to produce some of our most profound accomplishments: the end of racial segregation, the expansion of women's rights, and the freedom of speech. By contrast, originalism suffers from fatal flaws: the impossibility of truly divining original intent, the difficulty of adapting eighteenth-century understandings to the modern world, and the pointlessness of chaining ourselves to decisions made centuries ago. David Strauss is one of our leading authorities on Constitutional law--one with practical knowledge as well, having served as Assistant Solicitor General of the United States and argued eighteen cases before the United States Supreme Court. Now he offers a profound new understanding of how the Constitution can remain vital to life in the twenty-first century.

Interpreting Law William N. Eskridge (Jr.). 2016 *Interpreting Law* is an accessible introduction to statutory and constitutional interpretation by the nation's leading legislation scholar. This concise treatise not only identifies the primary canons or precepts that guide interpretation, but demonstrates how they operate and interact, as a matter of both practice and evolving aspiration. Unlike earlier academic treatises, which rummage through a potpourri of often arcane Supreme Court decisions, Professor Eskridge's new book focuses on a statute prohibiting vehicles in Lafayette Park, across the street from the White House. Each chapter engages the law student and the experienced practitioner to consider the application of the statute and its statutory and institutional context to a wide and often delightful array of situations. As the preface by Justice John Paul Stevens

suggests, the reader will emerge from this book with a deeply enriched understanding of-and excitement about-legal interpretation.

A Matter of Interpretation Elizabeth Mac Donald.2019-09-05 It's thirteenth-century Europe and young monk, Michael Scot, has been asked by the Holy Roman Emperor to translate the works of Aristotle and recover his 'lost' knowledge. The Scot sets to his task, travelling from the Emperor's Italian court to the translation schools of Toledo and from there to the Moorish library of Córdoba. But when the Pope deems the translations heretical, the Scot refuses to desist. So begins a battle for power between Church and State - one that shaped how we view the world today.--Provided by publisher.

Dynamic Statutory Interpretation William N. Eskridge.1994 Contrary to traditional theories of statutory interpretation, which ground statutes in the original legislative text or intent, legal scholar William Eskridge argues that statutory interpretation changes in response to new political alignments, new interpreters, and new ideologies. It does so, first of all, because it involves richer authoritative texts than does either common law or constitutional interpretation: statutes are often complex and have a detailed legislative history. Second, Congress can, and often does, rewrite statutes when it disagrees with their interpretations; and agencies and courts attend to current as well as historical congressional preferences when they interpret statutes. Third, since statutory interpretation is as much agency-centered as judgecentered and since agency executives see their creativity as more legitimate than judges see theirs, statutory interpretation in the modern regulatory state is particularly dynamic. Eskridge also considers how different normative theories of jurisprudence--liberal, legal process, and antiliberal--inform debates about statutory interpretation. He explores what theory of statutory interpretation--if any--is required by the rule of law or by

democratic theory. Finally, he provides an analytical and jurisprudential history of important debates on statutory interpretation.

51 Imperfect Solutions Judge Jeffrey S. Sutton. 2018-05-07 When we think of constitutional law, we invariably think of the United States Supreme Court and the federal court system. Yet much of our constitutional law is not made at the federal level. In *51 Imperfect Solutions*, U.S. Court of Appeals Judge Jeffrey S. Sutton argues that American Constitutional Law should account for the role of the state courts and state constitutions, together with the federal courts and the federal constitution, in protecting individual liberties. The book tells four stories that arise in four different areas of constitutional law: equal protection; criminal procedure; privacy; and free speech and free exercise of religion. Traditional accounts of these bedrock debates about the relationship of the individual to the state focus on decisions of the United States Supreme Court. But these explanations tell just part of the story. The book corrects this omission by looking at each issue-and some others as well-through the lens of many constitutions, not one constitution; of many courts, not one court; and of all American judges, not federal or state judges. Taken together, the stories reveal a remarkably complex, nuanced, ever-changing federalist system, one that ought to make lawyers and litigants pause before reflexively assuming that the United States Supreme Court alone has all of the answers to the most vexing constitutional questions. If there is a central conviction of the book, it's that an underappreciation of state constitutional law has hurt state and federal law and has undermined the appropriate balance between state and federal courts in protecting individual liberty. In trying to correct this imbalance, the book also offers several ideas for reform.

Originalism Steven G. Calabresi. 2007-08-21 What did the Constitution mean at the time it was adopted? How should we interpret today the words used by the Founding Fathers? In

ORIGINALISM: A QUARTER-CENTURY OF DEBATE, these questions are explained and dissected by the very people who continue to shape the legal structure of our country. This is a lively and fascinating discussion of an issue that has occupied the greatest legal minds in America, and one that continues to elicit strong reactions from both those who support and those who oppose the rule of law. Steven G. Calabresi, co-founder of the Federalist Society and professor of law at Northwestern University School of Law, has compiled an impressive collection of speeches, panel discussions, and debates from some of the greatest and most prominent legal experts of the last twenty-five years.

Intention and Interpretation: A Short History Ralf Grüttemeier. 2022-02-07 Intention plays a complex role in human utterances. The interpretation of literary texts is a strong case in point: for about two hundred years there have been conflicting views about whether, and how much, authorial intention should matter when professional readers interpret literature. These debates grew increasingly fierce during the post-World War II period, the landmarks of which were the notions of intentional fallacy and the death of the author. Seventy-odd years later, there is still no consensus in sight. What has always been neglected in the debates around authorial intention, however, is a reflection on the historical dimension of the debate and how historically bound each of the theoretical positions in the debate were. This book focusses precisely on the historical dimension of authorial intention, providing a systematic historical reconstruction of the importance ascribed to it in literary texts from Classical Greece to the present day, and including a chapter on authorial intention in jurisdiction and legal interpretation from a historical perspective. The book reconstructs a typology of the most important concepts of intention in interpretation for diachronic and synchronic use. At the same time it offers insights from a field-theoretical perspective into how literary studies as a discipline

works over time and how notions of intention and interpretation help create forms of literary knowledge.

A Matter of Interpretation Elizabeth Mac Donald.2021-06 It's 13th-century Europe and a young monk, Michael Scot, has been asked by the Holy Roman Emperor to translate the works of Aristotle and recover his lost knowledge. The Scot sets to his task, traveling from the Emperor's Italian court to the translation schools of Toledo and from there to the Moorish library of Córdoba. But when the Pope deems the translations heretical, the Scot refuses to desist. So begins a battle for power between Church and State--one that has shaped how we view the world today.

Freedom's Law Ronald Dworkin.1999 Dworkin's important book is a collection of essays which discuss almost all of the great constitutional issues of the last two decades, including abortion, euthanasia, capital punishment, homosexuality, pornography, and free speech. Dworkin offers a consistently liberal view of the Constitution and argues that fidelity to it and to law demands that judges make moral judgments. He proposes that we all interpret the abstract language of the Constitution by reference to moral principles about political decency and justice. His 'moral reading' therefore brings political morality into the heart of constitutional law. The various chapters of this book were first published separately; now drawn together they provide the reader with a rich, full-length treatment of Dworkin's general theory of law.

Purposive Interpretation in Law Aharon Barak.2011-10-16 This book presents a comprehensive theory of legal interpretation, by a leading judge and legal theorist. Currently, legal philosophers and jurists apply different theories of interpretation to constitutions, statutes, rules, wills, and contracts. Aharon Barak argues that an alternative approach--purposive interpretation--allows jurists and scholars to approach all legal texts in a similar manner while remaining sensitive to the

important differences. Moreover, regardless of whether purposive interpretation amounts to a unifying theory, it would still be superior to other methods of interpretation in tackling each kind of text separately. Barak explains purposive interpretation as follows: All legal interpretation must start by establishing a range of semantic meanings for a given text, from which the legal meaning is then drawn. In purposive interpretation, the text's purpose is the criterion for establishing which of the semantic meanings yields the legal meaning. Establishing the ultimate purpose--and thus the legal meaning--depends on the relationship between the subjective and objective purposes; that is, between the original intent of the text's author and the intent of a reasonable author and of the legal system at the time of interpretation. This is easy to establish when the subjective and objective purposes coincide. But when they don't, the relative weight given to each purpose depends on the nature of the text. For example, subjective purpose is given substantial weight in interpreting a will; objective purpose, in interpreting a constitution. Barak develops this theory with masterful scholarship and close attention to its practical application. Throughout, he contrasts his approach with that of textualists and neotextualists such as Antonin Scalia, pragmatists such as Richard Posner, and legal philosophers such as Ronald Dworkin. This book represents a profoundly important contribution to legal scholarship and a major alternative to interpretive approaches advanced by other leading figures in the judicial world.

The Genesis of Secrecy Frank Kermode.1979 An examination of some enigmatic passages and episodes in the gospels.

Reading Law Antonin Scalia,Bryan A. Garner.2012 In this groundbreaking book, Scalia and Garner systematically explain all the most important principles of constitutional, statutory, and contractual interpretation in an engaging and informative style with hundreds of illustrations from actual cases.

Is a burrito a sandwich? Is a corporation entitled to personal privacy? If you trade a gun for drugs, are you using a gun in a drug transaction? The authors grapple with these and dozens of equally curious questions while explaining the most principled, lucid, and reliable techniques for deriving meaning from authoritative texts. Meanwhile, the book takes up some of the most controversial issues in modern jurisprudence. What, exactly, is textualism? Why is strict construction a bad thing? What is the true doctrine of originalism? And which is more important: the spirit of the law, or the letter? The authors write with a well-argued point of view that is definitive yet nuanced, straightforward yet sophisticated.

On the Interpretation of Treaties Ulf Linderfalk.2007-09-11 This is the first comprehensive account of the modern international law of treaty interpretation expressed in 1969 Vienna Convention, Articles 31-33. As stated by the anonymous referee, it is the most theoretically advanced and analytically refined work yet accomplished on this topic. The style of writing is clear and concise, and the organisation of the book meets the demands of scholars and practitioners alike.

Scalia V. Scalia Catherine L. Langford.2018-01-09 An analysis of the discrepancy between the ways Supreme Court Justice Antonin Scalia argued the Constitution should be interpreted versus how he actually interpreted the law Antonin Scalia is considered one of the most controversial justices to have been on the United States Supreme Court. A vocal advocate of textualist interpretation, Justice Scalia argued that the Constitution means only what it says and that interpretations of the document should be confined strictly to the directives supplied therein. This narrow form of constitutional interpretation, which limits constitutional meaning to the written text of the Constitution, is known as textualism. *Scalia v. Scalia: Opportunistic Textualism in Constitutional Interpretation* examines Scalia's discussions of textualism in his speeches, extrajudicial writings, and judicial opinions.

Throughout his writings, Scalia argues textualism is the only acceptable form of constitutional interpretation. Yet Scalia does not clearly define his textualism, nor does he always rely upon textualism to the exclusion of other interpretive means. Scalia is seen as the standard bearer for textualism. But when textualism fails to support his ideological aims (as in cases that pertain to states' rights or separation of powers), Scalia reverts to other forms of argumentation. Langford analyzes Scalia's opinions in a clear area of law, the cruel and unusual punishment clause; a contested area of law, the free exercise and establishment cases; and a silent area of law, abortion. Through her analysis, Langford shows that Scalia uses rhetorical strategies beyond those of a textualist approach, concluding that Scalia is an opportunistic textualist and that textualism is as rhetorical as any other form of judicial interpretation.

Ratio Legis Verena Klappstein, Maciej Dybowski. 2018-05-02 The book is dedicated to the theoretical problems concerning ratio legis. In the contexts of legal interpretation and legal reasoning, the two most important intellectual tools employed by lawyers, ratio legis would seem to offer an extremely powerful argument. Declaring the ratio legis of a statute can lead to a u-turn argumentation throughout the lifespan of the statute itself - in parliament, or in practice during court sessions, when it is tested against the constitution. Though the ratio legis argument is widely used, much about it warrants further investigation. On the general philosophical map there are many overlapping areas that concern different approaches to human rationality and to the problems of practical reasoning. Particular problems with ratio legis arise in connection with different perspectives on legal philosophy and theory, especially in terms of the methods that lawyers use for legal interpretation and argumentation. These problems can be further subdivided into particular aspects of activities undertaken by lawyers and officials who use the ratio legis in their work, and

the underlying theories. In short, this book examines what ratio legis is, what it could be, and its practical implications.

Interpretation without Truth Pierluigi Chiassoni.2019-06-12 This book engages in an analytical and realistic enquiry into legal interpretation and a selection of related matters including legal gaps, judicial fictions, judicial precedent, legal defeasibility, and legislation. Chapter 1 provides an outline of the central theoretical and methodological tenets of analytical realism. Chapter 2 presents a conceptual apparatus concerning the phenomenon of legal interpretation, which it subsequently applies to investigate the truth-in-legal-interpretation issue. Chapters 3 to 6 argue for a theory of legal interpretation - pragmatic realism - by outlining a theory of interpretive games, revisiting the debate between literalism and contextualism in contemporary philosophy of language, and underscoring the many shortcomings of the container-retrieval view and pragmatic formalism. In turn, Chapter 7, focusing on comparative legal theory, advocates an interpretation-sensitive theory of legal gaps, as opposed to purely normativist ones. Chapter 8 explores the connection between judicial reasoning and judicial fictions, casting light on the structure and purpose of fictional reasoning. Chapter 9 provides an analytical enquiry into judicial precedent, examining a variety of ideal-typical systems in terms of their normative or de iure relevance. Chapter 10 addresses defeasibility and legal indeterminacy. In closing, Chapter 11 highlights the central tenets of a realistic theory of legislation.

Judging Statutes Robert A. Katzmann.2014-08-14 In an ideal world, the laws of Congress--known as federal statutes--would always be clearly worded and easily understood by the judges tasked with interpreting them. But many laws feature ambiguous or even contradictory wording. How, then, should judges divine their meaning? Should they stick only to the text? To what degree, if any,

should they consult aids beyond the statutes themselves? Are the purposes of lawmakers in writing law relevant? Some judges, such as Supreme Court Justice Antonin Scalia, believe courts should look to the language of the statute and virtually nothing else. Chief Judge Robert A. Katzmann of the U.S. Court of Appeals for the Second Circuit respectfully disagrees. In *Judging Statutes*, Katzmann, who is a trained political scientist as well as a judge, argues that our constitutional system charges Congress with enacting laws; therefore, how Congress makes its purposes known through both the laws themselves and reliable accompanying materials should be respected. He looks at how the American government works, including how laws come to be and how various agencies construe legislation. He then explains the judicial process of interpreting and applying these laws through the demonstration of two interpretative approaches, purposivism (focusing on the purpose of a law) and textualism (focusing solely on the text of the written law). Katzmann draws from his experience to show how this process plays out in the real world, and concludes with some suggestions to promote understanding between the courts and Congress. When courts interpret the laws of Congress, they should be mindful of how Congress actually functions, how lawmakers signal the meaning of statutes, and what those legislators expect of courts construing their laws. The legislative record behind a law is in truth part of its foundation, and therefore merits consideration.

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