

The Creation of American Common Law, 1850–1880

*Technology, Politics, and the
Construction of Citizenship*

Howard Schweber

CAMBRIDGE

Creation Of American Common Law 1850 1880

Technology Politics And The Construction Of Citizenship

Alex Marshall



Creation Of American Common Law 1850 1880 Technology Politics And The Construction Of Citizenship:

The Creation of American Common Law, 1850-1880 Howard Schweber, 2011-04-14 America developed its own system of the common law the name for legal principles developed by judges in the mid nineteenth century abandoning the legal system inherited from England This comparative study of the development of American law contrasts the experiences of North and South by a study of Illinois and Virginia supported by observations from six states It has an original comparative focus highlighting the connections between legal development American political thought and American political and economic development

The Creation of American Common Law, 1850-1880 Howard Schweber, 2004-01-12 This book is a comparative study of the American legal development in the mid nineteenth century Focusing on Illinois and Virginia supported by observations from six additional states the book traces the crucial formative moment in the development of an American system of common law in northern and southern courts The process of legal development and the form the basic analytical categories of American law came to have are explained as the products of different responses to the challenge of new industrial technologies particularly railroads The nature of those responses was dictated by the ideologies that accompanied the social political and economic orders of the two regions American common law ultimately is found to express an emerging model of citizenship appropriate to modern conditions As a result the process of legal development provides an illuminating perspective on the character of American political thought in a formative period of the nation

Common Law, History, and Democracy in America, 1790-1900 Kunal M. Parker, 2011-03-14 This book argues for a change in our understanding of the relationships among law politics and history Since the turn of the nineteenth century a certain anti foundational conception of history has served to undermine law s foundations such that we tend to think of law as nothing other than a species of politics Thus viewed the activity of unelected common law judges appears to be an encroachment on the space of democracy However Kunal M Parker shows that the world of the nineteenth century looked rather different Democracy was itself constrained by a sense that history possessed a logic meaning and direction that democracy could not contravene In such a world far from law being seen in opposition to democracy it was possible to argue that law specifically the common law did a better job than democracy of guiding America along history s path

Constitutional Context Kathleen S. Sullivan, 2007-04-23 This provocative reassessment of the 19th century American women s movement calls into question its attack on common law traditions While the United States was founded on principles of freedom and equality its legal traditions are based in British common law In the nineteenth century women s rights advocates argued that this led to a contradiction common law rules concerning property and the status of married women were at odds with the nation s principles Conventional wisdom suggests that this tactic was successful But in Constitutional Context historian Kathleen S Sullivan offers a fresh perspective In revisiting the era s congressional debates state legislation judicial opinions news accounts and work of political activists Sullivan finds that the argument for universal abstract rights was not the only or even

the best path available for social change Rather than establishing a new paradigm of absolute rights the women s movement unwittingly undermined common law s ability to redress grievances This contributed to the social cultural and political stagnation that characterizes the movement today A challenging and thoughtful study of what is commonly thought of as an era of progress Constitutional Context provides the groundwork for a more comprehensive understanding and interpretation of constitutional law *The Oxford Handbook of American Political Development* Richard M. Valelly, Suzanne Mettler, Robert C. Lieberman, 2016 Scholars working in or sympathetic to American political development APD share a commitment to accurately understanding the history of American politics and thus they question stylized facts about America s political evolution Like other approaches to American politics APD prizes analytical rigor data collection the development and testing of theory and the generation of provocative hypotheses Much APD scholarship indeed overlaps with the American politics subfield and its many well developed literatures on specific institutions or processes for example Congress judicial politics or party competition specific policy domains welfare policy immigration the foundations of inequality in American politics the distribution of wealth and income race ethnicity gender class and sexual and gender orientation public law and governance and representation What distinguishes APD is careful systematic thought about the ways that political processes civic ideals the political construction of social divisions patterns of identity formation the making and implementation of public policies contestation over and via the Constitution and other formal and informal institutions and processes evolve over time and whether and how they alter compromise or sustain the American liberal democratic regime APD scholars identify in short the histories that constitute American politics They ask what familiar or unfamiliar elements of the American past illuminate the present Are contemporary phenomena that appear new or surprising prefigured in ways that an APD approach can bring to the fore If a contemporary phenomenon is unprecedented then how might an accurate understanding of the evolution of American politics unlock its significance Featuring contributions from leading academics in the field *The Oxford Handbook of American Political Development* provides an authoritative and accessible analysis of the study of American political development *Making Capitalism Safe* Donald Wayne Rogers, 2009 Workplaces in the United States are safer today than they were a hundred and twenty years ago In this book Donald W Rogers attributes this improvement partly to the development in the Progressive Era of surprisingly strong state level work safety and health regulatory agencies a patchwork of commissions and labor departments that advanced safety law from common law negligence to the modern system of administrative regulation Rogers examines the Wisconsin Industrial Commission and compares it to arrangements in Ohio California New York Illinois and Alabama Connecting this history to the creation of the Occupational Safety and Health Administration in 1970 *Making Capitalism Safe* will revise historical understandings of state regulation compensation insurance and labor law politics issues that remain pressing in our time ***The Common Law Inside the Female Body*** Anita Bernstein, 2019 Explains why lawyers seeking gender progress from primary legal materials should start with the

common law Controlling Administrative Power Peter Cane, 2016-03-31 An historical and comparative explanation of some puzzling differences between the administrative law of England the USA and Australia **The Power of Habeas Corpus in America** Anthony Gregory, 2013-04-15 Despite its mystique as the greatest Anglo American legal protection habeas corpus history features power plays political hypocrisy ad hoc jurisprudence and failures in securing individual liberty This book tells the story of the writ from medieval England to modern America crediting the rocky history to the writ s very nature as a government power The book weighs in on habeas historical controversies addressing its origins the relationship between king and parliament the US Constitution s Suspension Clause the writ s role in the power struggle between the federal government and the states and the proper scope of federal habeas for state prisoners and wartime detainees from the Civil War and World War II to the War on Terror It stresses the importance of liberty and detention policy in making the writ more than a tool of power The book presents a more nuanced and critical view of the writ s history showing the dark side of this most revered judicial power The Political Economy of the American Frontier Ilia Murtazashvili, 2013-09-16 Demonstrates why claim clubs are perhaps the most important explanation for the origins of and change in property institutions during an important period in American history **The Language of Liberal Constitutionalism** Howard Schweber, 2007-02-26 This book explores two basic questions regarding constitutional theory First in view of a commitment to democratic self rule and widespread disagreement on questions of value how is the creation of a legitimate constitutional regime possible Second what must be true about a constitution if the regime that it supports is to retain its claim to legitimacy Howard Schweber shows that the answers to these questions appear in a theory of constitutional language that combines democratic theory with constitutional philosophy The creation of a legitimate constitutional regime depends on a shared commitment to a particular and specialized form of language Out of this simple observation Schweber develops arguments about the characteristics of constitutional language the necessary differences between constitutional language and the language of ordinary law or morality as well as the authority of officials such as judges to engage in constitutional review of laws

Reconstructions Thomas J. Brown, 2008-09-23 The pivotal era of Reconstruction has inspired an outstanding historical literature In the half century after W E B DuBois published *Black Reconstruction in America* 1935 a host of thoughtful and energetic authors helped to dismantle racist stereotypes about the aftermath of emancipation and Union victory in the Civil War The resolution of long running interpretive debates shifted the issues at stake in Reconstruction scholarship but the topic has remained a vital venue for original exploration of the American past In *Reconstructions New Perspectives on the Postbellum United States* eight rising historians survey the latest generation of work and point to promising directions for future research They show that the field is opening out to address a wider range of adjustments to the experiences and effects of Civil War Increased interest in cultural history now enriches understandings traditionally centered on social and political history Attention to gender has joined a focus on labor as a powerful strategy for analyzing negotiations over private

and public authority The contributors suggest that Reconstruction historiography might further thrive by strengthening connections to such subjects as western history legal history and diplomatic history and by redefining the chronological boundaries of the postwar period The essays provide more than a variety of attractive vantage points for fresh examination of a major phase of American history By identifying the most exciting recent approaches to a theme previously studied so ably the collection illuminates the creative process in scholarly historical literature

Informal Order and the State in Afghanistan Jennifer Brick Murtazashvili, 2016-04-21 Despite vast efforts to build the state profound political order in rural Afghanistan is maintained by self governing customary organizations *Informal Order and the State in Afghanistan* explores the rules governing these organizations to explain why they can provide public goods Instead of withering during decades of conflict customary authority adapted to become more responsive and deliberative Drawing on hundreds of interviews and observations from dozens of villages across Afghanistan and statistical analysis of nationally representative surveys Jennifer Brick Murtazashvili demonstrates that such authority enhances citizen support for democracy enabling the rule of law by providing citizens with a bulwark of defence against predatory state officials Contrary to conventional wisdom it shows that traditional order does not impede the development of the state because even the most independent minded communities see a need for a central government but question its effectiveness when it attempts to rule them directly and without substantive consultation

The Cambridge Companion to Democracy in America Richard Boyd, 2022-03-24 These essays explore important themes and contemporary legacies of Alexis de Tocqueville's classic work *Democracy in America*

The Surprising Design of Market Economies Alex Marshall, 2012-09-01 The free market has been a hot topic of debate for decades Proponents tout it as a cure all for just about everything that ails modern society while opponents blame it for the very same ills But the heated rhetoric obscures one very important indeed fundamental fact markets don't just run themselves we create them Starting from this surprisingly simple yet often ignored or misunderstood fact Alex Marshall takes us on a fascinating tour of the fundamentals that shape markets and through them our daily economic lives He debunks the myth of the free market showing how markets could not exist without governments to create the structures through which we assert ownership of property real and intellectual and conduct business of all kinds Marshall also takes a wide ranging look at many other structures that make markets possible including physical infrastructure ranging from roads and railroads to water systems and power lines mental and cultural structures such as common languages and bodies of knowledge and the international structures that allow goods services cash bytes and bits to flow freely around the globe Sure to stimulate a lively public conversation about the design of markets this broadly accessible overview of how a market economy is constructed will help us create markets that are fairer more prosperous more creative and more beautiful

The Complete American Constitutionalism Mark A. Graber, Howard Gillman, 2015 Presentation de l'auteur The Complete American Constitutionalism is designed to be the comprehensive treatment and source for debates on the American constitutional

experience It provides the analysis resources and materials both domestic and foreign readers must understand with regards to the practice of constitutionalism in the United States This first part to Volume Five of the series covers The Constitution of the Confederate States The authors offer a comprehensive analysis of the constitution of the Confederate States during the American Civil War Confederate constitutionalism presents the paradox of a society constitutionally committed to human and white supremacy whose constitutional materials rarely dwell on human bondage and racism The foundational texts of Confederate constitutionalism maintain that racial slavery was at the core of secession and southern nationality This volume provides the various speeches ordinances and declarations cases and a host of other sources accompanied by detailed historical commentary Civil Rights in the Shadow of Slavery George Rutherglen,2013-01-17 The author begins with the birth of civil rights the circumstances acts and legacy of the 39th Congress constitutional origins passage and structure of the Act moves through the Fourteenth Amendment and into restrictive interpretations and quiescent years and finishes with a chapter on discerning the future from the past and the contemporary significance of the Act **The Globalization of Corporate Governance** Alan Dignam,Michael Galanis,2016-03-09 The process of economic globalization as product and capital markets have become increasingly integrated since WWII has placed huge and it is argued by some irresistible pressures on the world s insider stakeholder oriented corporate governance systems Insider corporate governance systems in countries such as Germany so the argument goes should converge or be transformed by global product and capital market pressures to the superior shareholder oriented outsider corporate governance model prevalent in the UK and the US What these pressures from globalization are how they manifest themselves whether they are likely to cause such a convergence transformation and whether these pressures will continue lie at the heart of the exploration in this volume The Globalization of Corporate Governance provides a detailed analysis of the evolution of the key corporate governance systems in the UK the US and Germany from the perspective of the development of economic globalization As such it is a valuable resource for those interested in how economic and legal reforms interact to produce change within corporate governance systems

Frontier Democracy Silvana R. Siddali,2016 Frontier Democracy examines the debates over state constitutions in the antebellum Northwest Indiana Illinois Iowa Michigan Minnesota Ohio and Wisconsin from the 1820s through the 1850s This is a book about conversations in particular the fights and negotiations over the core ideals in the constitutions that brought these frontier communities to life Silvana R Siddali argues that the Northwestern debates over representation and citizenship reveal two profound commitments the first to fair deliberation and the second to ethical principles based on republicanism Christianity and science Some of these ideas succeeded brilliantly within forty years the region became an economic and demographic success story However some failed tragically racial hatred prevailed everywhere in the region in spite of reformers passionate arguments for justice and resulted in disfranchisement and even exclusion for non white Northwesterners that lasted for generations *Stepping Lively in Place* Joyce Linda Broussard,2016-07-15 Enlivened with

profiles and vignettes of some of the remarkable people whose histories inform this study *Stepping Lively in Place* shows how free single women navigated life in a busy slave based river port town before and during the Civil War and how these women transitioned during Reconstruction emancipation and thereafter It examines how free single women in one city including prostitutes entrepreneurs and elite plantation ladies coped with life unencumbered or unprotected by husbands The book pays close attention to the laws affecting southern gender and sociocultural traditions focusing especially on how the town's free single women maneuvered adroitly but guardedly within the legal arena in which they lived Joyce Linda Broussard looks at all types of free single women black and white law abiding and criminal including spinsters widows divorcees and abandoned women She demonstrates the nuanced degrees to which these women understood that the legal cultural and social traditions of their place and time could alternately constrain or empower them often achieving thereby a considerable amount of independence as women Before the Civil War says Broussard the town's patriarchal community tolerated often reluctantly even the most independent minded and often disorderly free single women as long as their behavior left unchallenged the institutions of white male mastery slavery and marriage She explores the impact of the Civil War and Reconstruction on the town's single women especially when thousands of formerly enslaved women and new widows swelled their ranks With slavery dead and male authority undermined Broussard demonstrates how the not married women of postbellum Natchez confronted a world turned inside out with a determinedly resolute dexterity

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