

**COURTS AND LAW  
IN EARLY  
NEW YORK**

**Selected Essays**

EDITED BY  
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AND MILTON M. KLEIN

# Courts And Law In Early New York Selected Essays

**Amalia D. Kessler**



## **Courts And Law In Early New York Selected Essays:**

A Distinct Judicial Power Scott Douglas Gerber, 2011-01-10 A Distinct Judicial Power The Origins of an Independent Judiciary 1606-1787 by Scott Douglas Gerber provides the first comprehensive critical analysis of the origins of judicial independence in the United States Part I examines the political theory of an independent judiciary Gerber begins chapter 1 by tracing the intellectual origins of a distinct judicial power from Aristotle's theory of a mixed constitution to John Adams's modifications of Montesquieu Chapter 2 describes the debates during the framing and ratification of the federal Constitution regarding the independence of the federal judiciary Part II the bulk of the book chronicles how each of the original thirteen states and their colonial antecedents treated their respective judiciaries This portion presented in thirteen separate chapters brings together a wealth of information charters instructions statutes etc about the judicial power between 1606 and 1787 and sometimes beyond Part III the concluding segment explores the influence the colonial and early state experiences had on the federal model that followed and on the nature of the regime itself It explains how the political theory of an independent judiciary examined in Part I and the various experiences of the original thirteen states and their colonial antecedents chronicled in Part II culminated in Article III of the U S Constitution It also explains how the principle of judicial independence embodied by Article III made the doctrine of judicial review possible and committed that doctrine to the protection of individual rights

**Law, Gender, and Injustice** Joan Hoff, 1994-04-01 A groundbreaking analysis of how gendered oppression is written into the American legal system Law Gender and Injustice A Legal History of U S Woman is a landmark study of how women remain second class citizens under the current legal system In this widely acclaimed book Joan Hoff questions whether the continued pursuit of equality based on a one size fits all vision of traditional individual rights is really what will most improve conditions for women in America Concluding that equality based on liberal male ideology is no longer an adequate framework for improving women's legal status Hoff's highly original and incisive volume calls for a demystification of legal doctrine and a reinterpretation of legal texts including the Constitution to create a feminist jurisprudence

*Prestatehood Legal Materials* Michael Chiorazzi, 2013-05-13 Explore the controversial legal history of the formation of the United States *Prestatehood Legal Materials* is your one stop guide to the history and development of law in the U S and the change from territory to statehood Unprecedented in its coverage of territorial government this book identifies a wide range of available resources from each state to reveal the underlying legal principles that helped form the United States In this unique publication a state expert compiles each chapter using his or her own style culminating in a diverse sourcebook that is interesting as well as informative In *Prestatehood Legal Materials* you will find bibliographies references and discussion on a varied list of source materials including state codes drafted by Congress county state and national archives journals and digests state and federal reports citations surveys and studies books manuscripts papers speeches and theses town and city records and documents Web sites to help your search for more information and more

Prestatehood Legal Materials provides you with brief overviews of state histories from colonization to acceptance into the United States In this book you will see how foreign countries controlled the laws of these territories and how these states eventually broke away to govern themselves The text also covers the legal issues with Native Americans inter state and the Mexico and Canadian borders and the development of the executive legislative and judicial branches of state government This guide focuses on materials that are readily available to historians political scientists legal scholars and researchers Resources that assist in locating not so easily accessible materials are also covered Special sections focus on the legal resources of colonial New York City and Washington DC which is still technically in its prestatehood stage Due to the enormity of this project the editor of Prestatehood Legal Materials created a Web page where updates corrections additions and more will be posted [The Creation of American Law](#) Jude M. Pfister, 2018-11-09 With the Constitutional Convention in 1787 America was set on a course to develop a unique system of law with roots in the English common law tradition This new system its foundations in Article III of the Constitution called for a national judiciary headed by a supreme court which first met in 1790 This book serves as a history of America's national law with a look at those such as John Jay the first Chief Justice James Iredell Bushrod Washington and James Wilson who set in motion not only the new Supreme Court but also the new federal judiciary These founders displayed great dexterity in maneuvering through the fraught political landscape of the 1790s

**The Jury in America** Dennis Hale, 2016-02-09 The jury trial is one of the formative elements of American government vitally important even when Americans were still colonial subjects of Great Britain When the founding generation enshrined the jury in the Constitution and Bill of Rights they were not inventing something new but protecting something old one of the traditional and essential rights of all free men Judgment by an impartial jury would henceforth put citizen panels at the very heart of the American legal order And yet at the dawn of the 21st century juries resolve just two percent of the nation's legal cases and critics warn that the jury is vanishing from both the criminal and civil courts The jury's critics point to sensational jury trials like those in the O J Simpson and Menendez cases and conclude that the disappearance of the jury is no great loss The jury's defenders from journeyman trial lawyers to members of the Supreme Court take a different view warning that the disappearance of the jury trial would be a profound loss In *The Jury in America* a work that deftly combines legal history political analysis and storytelling Dennis Hale takes us to the very heart of this debate to show us what the American jury system was what it has become and what the changes in the jury system tell us about our common political and civic life Because the jury is so old continuously present in the life of the American republic it can act as a mirror reflecting the changes going on around it And yet because the jury is embedded in the Constitution it has held on to its original shape more stubbornly than almost any other element in the American regime Looking back to juries at the time of America's founding and forward to the fraught and diminished juries of our day Hale traces a transformation in our understanding of ideas about sedition race relations negligence expertise the responsibilities of citizenship and what it means to be a citizen who is good

and true and therefore suited to the difficult tasks of judgment Criminal and civil trials and the jury decisions that result from them involve the most fundamental questions of right and so go to the core of what makes the nation what it is In this light in conclusion Hale considers four controversial modern trials for what they can tell us about what a jury is and about the fate of republican government in America today      *The Encyclopedia of New York State* Peter Eisenstadt,2005-05-19 The Encyclopedia of New York State is one of the most complete works on the Empire State to be published in a half century In nearly 2 000 pages and 4 000 signed entries this single volume captures the impressive complexity of New York State as a historic crossroads of people and ideas as a cradle of abolitionism and feminism and as an apex of modern urban suburban and rural life The Encyclopedia is packed with fascinating details from fields ranging from sociology and geography to history Did you know that Manhattan s Lower East Side was once the most populated neighborhood in the world but Hamilton County in the Adirondacks is the least densely populated county east of the Mississippi New York is the only state to border both the Great Lakes and the Atlantic Ocean the Erie Canal opened New York City to rich farmland upstate and to the west Entries by experts chronicle New York s varied areas politics and persuasions with a cornucopia of subjects from environmentalism to higher education to railroads weaving the state s diverse regions and peoples into one idea of New York State Lavishly illustrated with 500 photographs and figures 120 maps and 140 tables the Encyclopedia is key to understanding the state s past present and future It is a crucial reference for students teachers historians and business people for New Yorkers of all persuasions and for anyone interested in finding out more about New York State      *Death of a Notary* Donna Merwick,2018-08-06 He was the only one He was the only man to have committed suicide in the town s seventeenth century history So begins Donna Merwick s fascinating tale of a Dutch notary who ended his life in his adopted community of Albany In a major feat of historical reconstruction she introduces us to Adriaen Janse van Ilpendam and the long forgotten world he inhabited in Holland s North American colony Her powerful narrative will make readers care for this quiet and studious man an ordinary settler for whom the clash of empires brought tragedy Like so many of his fellow countrymen Janse left his Dutch homeland as a young adult to try his luck in New Netherland After spending a few years on Manhattan Island he moved on to the fur trading settlement today known as Albany Merwick traces his journey to a new continent and re creates the satisfying existence this respected burgher enjoyed with his wife in the bustling town As a notary Janse was in the author s words surrounded by stories those he listened to and recorded the hundreds he archived in a chest or trunk His familiar life was turned upside down by the British conquest of the colony Merwick recounts the changes brought about by the new rulers and imagines the despair Janse must have felt when English a language he had never learned replaced his native tongue in official transactions In any military adventure truth is alleged to be the first casualty Merwick offers a poignant reminder that the first casualties are in fact people As much a musing on what history obscures as what it reveals her book is a superior work by a master practitioner of her craft      **A Catalogue of the Law Collection at**

**New York University** Julius J. Marke, 1999 Marke Julius J Editor A Catalogue of the Law Collection at New York University With Selected Annotations New York The Law Center of New York University 1953 xxxi 1372 pp Reprinted 1999 by The Lawbook Exchange Ltd LCCN 99 19939 ISBN 1 886363 91 9 Cloth 195 Reprint of the massive well annotated catalogue compiled by the librarian of the School of Law at New York University Classifies approximately 15 000 works excluding foreign law by Sources of the Law History of Law and its Institutions Public and Private Law Comparative Law Jurisprudence and Philosophy of Law Political and Economic Theory Trials Biography Law and Literature Periodicals and Serials and Reference Material With a thorough subject and author index This reference volume will be of continuous value to the legal scholar and bibliographer due not only to the works included but to the authoritative annotations often citing more than one source Besterman A World Bibliography of Bibliographies 3461      **Inventing American Exceptionalism** Amalia D. Kessler, 2017-01-01 Cover Half title Title Copyright Acknowledgments Introduction Chapter 1 The Natural Elevation of Equity Quasi Inquisitorial Procedure and the Early Nineteenth Century Resurgence of Equity Chapter 2 A Troubled Inheritance The English Procedural Tradition and Its Lawyer Driven Reconfiguration in Early Nineteenth Century New York Chapter 3 The Non Revolutionary Field Code Democratization Docket Pressures and Codification Chapter 4 Cultural Foundations of American Adversarialism Civic Republicanism and the Decline of Equity's Quasi Inquisitorial Tradition Chapter 5 Market Freedom and Adversarial Adjudication The Nineteenth Century American Debates over European Conciliation Courts and the Problem of Procedural Ordering Chapter 6 The Freedmen's Bureau Exception The Triumph of Due Adversarial Process and the Dawn of Jim Crow Conclusion The Question of American Exceptionalism and the Lessons of History Appendix An Overview of the Archives Notes Index A B C D E F G H I J K L M N O P Q R S T U V W Y Z      Courts and Commerce Deborah A. Rosen, 1997 Describes the rise of debt in colonial New York as evidenced in probate inventories and court records to prove that 18th century economic relationships were business arrangements not familial or communal in nature and that there was widespread involvement in the market not only by wealthy merchants but also farmers craftsmen and others of average or modest means Examines women as well as men in the rising capitalist economy looking at the process by which women were marginalized from the core of economic relations as the economy and legal system became more contractualized and formalized and contrasts urban and rural women Paper edition unseen 17 95 Annotation copyrighted by Book News Inc Portland OR      A Distant Heritage Larry Eldridge, 1995-07 Historians often rely on a handful of unusual cases to illustrate the absence of free speech in the colonies such as that of Richard Barnes who had his arms broken and a hole bored through his tongue for seditious words against the governor of Virginia In this definitive and accessible work Larry Eldridge convincingly debunks this view by revealing surprising evidence of free speech in early America Using the court records of every American colony that existed before 1700 and an analysis of over 1 200 seditious speech cases sifted from those records A Distant Heritage shows how colonists experienced a dramatic expansion during the seventeenth century of their

freedom to criticize government and its officials Exploring important changes in the roles of juries and appeals the nature of prosecution and punishment and the pattern of growing leniency Eldridge also shows us why this expansion occurred when it did He concludes that the ironic combination of tumult and destabilization on the one hand and steady growth and development on the other made colonists more willing to criticize authority openly and officials less able to prevent it That in turn established a foundation for the more celebrated flowering of colonial dissent against English authority in the eighteenth century Steeped in primary sources and richly narrated this is an invaluable addition to the library of anyone interested in legal history colonial America or the birth of free speech in the United States

**Conscience, Equity and the Court of Chancery in Early Modern England** Dennis R. Klinck, 2016-05-23 Judicial equity developed in England during the medieval period providing an alternative access to justice for cases that the rigid structures of the common law could not accommodate Where the common law was constrained by precedent and strict procedural and substantive rules equity relied on principles of natural justice or conscience to decide cases and right wrongs Overseen by the Lord Chancellor equity became one of the twin pillars of the English legal system with the Court of Chancery playing an ever greater role in the legal life of the nation Yet whilst the Chancery was commonly and still sometimes is referred to as a court of conscience there is remarkably little consensus about what this actually means or indeed whose conscience is under discussion This study tackles the difficult subject of the place of conscience in the development of English equity during a crucial period of legal history Addressing the notion of conscience as a juristic principle in the Court of Chancery during the sixteenth and seventeenth centuries the book explores how the concept was understood and how it figured in legal judgment Drawing upon both legal and broader cultural materials it explains how that understanding differed from modern notions and how it might have been more consistent with criteria we commonly associate with objective legal judgement than the modern more subjective concept of conscience The study culminates with an examination of the chancellorship of Lord Nottingham 1673-82 who because of his efforts to transform equity from a jurisdiction associated with discretion into one based on rules is conventionally regarded as the father of modern systematic equity From a broader perspective this study can be seen as a contribution to the enduring discussion of the relationship between formal accounts of law which see it as systems of rules and less formal accounts which try to make room for intuitive moral or prudential reasoning

**Gibbons v. Ogden, Law, and Society in the Early Republic** Thomas H. Cox, 2009-08-25 *Gibbons v Ogden* Law and Society in the Early Republic examines a landmark decision in American jurisprudence the first Supreme Court case to deal with the thorny legal issue of interstate commerce Decided in 1824 *Gibbons v Ogden* arose out of litigation between owners of rival steamboat lines over passenger and freight routes between the neighboring states of New York and New Jersey But what began as a local dispute over the right to ferry the paying public from the New Jersey shore to New York City soon found its way into John Marshall's court and constitutional history The case is consistently ranked as one of the twenty most significant Supreme Court

decisions and is still taught in constitutional law courses cited in state and federal cases and quoted in articles on constitutional business and technological history *Gibbons v Ogden* initially attracted enormous public attention because it involved the development of a new and sensational form of technology To early Americans steamboats were floating symbols of progress cheaper and quicker transportation that could bring goods to market and refinement to the backcountry A product of the rough and tumble world of nascent capitalism and legal innovation the case became a landmark decision that established the supremacy of federal regulation of interstate trade curtailed states rights and promoted a national market economy The case has been invoked by prohibitionists New Dealers civil rights activists and social conservatives alike in debates over federal regulation of issues ranging from labor standards to gun control This lively study fills in the social and political context in which the case was decided the colorful and fascinating personalities the entrepreneurial spirit of the early republic and the technological breakthroughs that brought modernity to the masses *The Transformation of American Law, 1780-1860* Morton J. HORWITZ, Morton J Horwitz, 2009-06-30 In a remarkable book based on prodigious research Horwitz offers a sweeping overview of the emergence of a national legal system from English and colonial antecedents He treats the evolution of common law as intellectual history and demonstrates how shifting views of private law became a dynamic element in the economic growth of the U S **The Role of the Supreme Court in American Government and Politics, 1835-1864** Charles Grove Haines, 2023-11-15 This title is part of UC Press s Voices Revived program which commemorates University of California Press s mission to seek out and cultivate the brightest minds and give them voice reach and impact Drawing on a backlist dating to 1893 Voices Revived makes high quality peer reviewed scholarship accessible once again using print on demand technology This title was originally published in 1957 *Patriots Before Revolution* Amy Watson, 2025-06-25 A new history of the Patriot movement before the American Revolution tracing its origins to reform movements in British politics The American revolutionaries George Washington Thomas Jefferson John and Abigail Adams called themselves Patriots But what exactly did it mean to be a Patriot Historian Amy Watson locates the origins of Patriotism in British politics of the early eighteenth century showing that the label Patriot was first adopted by a network of British politicians with radical ideas about the principles and purpose of the British Empire The early Patriots ideological mission was not American independence but rather imperial reform Patriots sought to create a British Empire that was militant expansionist confederal and free Over the course of the next half century these British reformers used print media and grassroots mobilization efforts to build an empire wide political party with adherents in London Edinburgh New York City and the new colony of Georgia While building this party the Patriots advocacy drew Britons into a series of violent political conflicts over taxes and civil liberty as well as three expansive global wars the War of Jenkins Ear 1739 48 the War of the Austrian Succession 1740 48 and the Seven Years War 1756 63 Patriot ideas and organizations came to divide Britons on increasingly sharp political lines laying the groundwork for the revolutionary decades to come **Maryland, A Middle**



**Temperament** Robert J. Brugger, 1996-09-25 Explores the ironies contradictions and compromises that give America's oldest border state its special character Selected by Choice Magazine as an Outstanding Academic Title Maryland A Middle Temperament explores the ironies contradictions and compromises that give America's oldest border state its special character Extensively illustrated and accompanied by bibliography maps charts and tables Robert Brugger's vivid account of the state's political economic social and cultural heritage from the outfitting of Cecil Calvert's expedition to the opening of Baltimore's Harborplace is rich in the issues and personalities that make up Maryland's story and explain its middle temperament

Resisting the European Court of Justice Bill Davies, 2012-06-18 The European Union's EU powerful legal framework drives the process of European integration The Court of Justice ECJ has established a uniquely effective supranational legal order beyond the original wording of the Treaty of Rome and transforming our traditional understanding of international law This work investigates how these fundamental transformations in the European legal system were received in one of the most important member states Germany On the one hand Germany has been highly supportive of political and economic integration yet on the other a fundamental pillar of the post war German identity was the integrity of its constitutional order How did a state whose constitution was so essential to its self understanding subscribe to the constitutional practice of EU law How did a country who could not say no to Europe become the member state most reluctant to accept the new power of the ECJ

**Forming American Politics** Alan Tully, 2019-12-01 Originally published in 1994 In this pathbreaking book Alan Tully offers an unprecedented comparative study of colonial political life and a rethinking of the foundations of American political culture Tully chooses for his comparison the two colonies that arguably had the most profound impact on American political history New York and Pennsylvania the rich and varied colonies at the geographical and ideological center of British colonial America Fundamental to the book is Tully's argument that out of Anglo American influences and the cumulative character of each colonial experience New York and Pennsylvania developed their own distinctive but complementary characteristics In making this case Tully enters from a new perspective the prominent argument between the classical republican and liberal views of early American public thought He contends that the radical Whig element of classical republicanism was far less influential than historians have believed and that the political experience of New York and Pennsylvania led to their role as innovators of liberal political concepts and discourse In a conclusion that pursues his insights into the revolutionary and early republican years Tully underlines a paradox in American political development not only were the pathbreaking liberal politicians of New York and Pennsylvania the least inclined towards revolutionary fervor but their political language and concepts integral to an emerging liberal democratic order were rooted in oligarchical political practice A momentous contribution to the burgeoning literature on the middle Atlantic region and to the vexed question of whether it constitutes a coherent cultural configuration Tully argues persuasively that it does and his arguments will have to be reckoned with like few that have gone before even as he develops an array of differences

between the two colonies more subtle and penetrating than any of his predecessors has ever put forth Michael Zuckerman  
University of Pennsylvania      The Sociology of Law A. Javier Treviño, 2008

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