
RECENT PUBLICATIONS

ATTACKING JUDGES: HOW CAMPAIGN ADVERTISING INFLUENCES STATE SUPREME COURT ELECTIONS. By Melinda Gann Hall. Stanford, Cal.: Stanford University Press. 2015. Pp. xvi, 244. \$27.95. Negative campaigning is a staple of modern American electoral politics. Matching the pervasiveness of negative campaigning is the universally negative response to these tactics, which are perceived both as bad form and as detrimental to the political process. In *Attacking Judges*, Professor Melinda Gann Hall marshals previously collected data in addition to her own new data to explore the effects of negative campaigning in elections of state supreme court judges. The public traditionally regards the judiciary as an institution that should be impervious to political pressures and above the partisan fray. In the midst of increased criticism of politicized elections for judges, *Attacking Judges* adds a perspective that, if not directly opposing conventional wisdom, certainly complicates the debate. Considering the caseloads of the state courts and their tendency to deal with the ostensibly mundane matters closest to most Americans' lives, Hall's book delivers counterintuitive empirical research and insights that will inform the ongoing discourse regarding judicial elections.

THE OPENING OF AMERICAN LAW: NEOCLASSICAL LEGAL THOUGHT, 1870–1970. By Herbert Hovenkamp. New York, N.Y.: Oxford University Press. 2015. Pp. viii, 460. \$49.95. The starting premise of antitrust expert Professor Herbert Hovenkamp's new book is that Darwinism and the rational actor model of economic marginalism were "the two most important scientific ideas of the nineteenth century" (p. 14). These revolutionary concepts ushered in a neoclassical era in which legal thinkers on both the left and right harnessed new intellectual currents to crack open the cloistered formalism of classical legal thought. After thus orienting the reader, Hovenkamp examines in detail just how these ideas have played out. He looks, for example, at new attitudes toward criminal law that were underpinned by both genetic determinism and marginal deterrence. Another chapter describes an "early law and economics 'movement'" (p. 75) that drew on Darwinian principles and was generally more progressive than today's movement; these pages make for instructive reading for generations of lawyers taught to believe that law and economics has been a recent development. The final chapters examine how business policy came to be "increasingly driven by marginalist rational actor assumptions" (p. 159). Fans of richly detailed legal and intellectual history will relish this new volume.