
RECENT PUBLICATIONS

ROOT AND BRANCH: CHARLES HAMILTON HOUSTON, THURGOOD MARSHALL, AND THE STRUGGLE TO END SEGREGATION. By Rawn James, Jr. New York, N.Y.: Bloomsbury Press. 2010. Pp. 276. \$28.00. The struggle against segregation in U.S. courts and public opinion began decades before the victory of *Brown v. Board of Education*. Rawn James, Jr., provides a personal account of this struggle by examining the lives of Charles Hamilton Houston and Justice Thurgood Marshall. *Root and Branch* traces how Dean Houston, who brought Howard University's law school into accreditation, and Marshall, Howard's star student, became friends and fellow warriors. The book begins with their first case together, in which Marshall impressed Houston with his promise and boldness; it follows their early trips to the segregated South to investigate the inequality between white and black schools; and it shows how the two fought for integration one case at a time. *Root and Branch* elucidates the perspectives of both men by giving a rich account of their backgrounds and their personal struggles as well as the troubled events of the time. It reveals the strategy and deliberation that went into their legal arguments as they made uncertain progress and how, in the end, their perseverance lead to legal victory.

THE OFFENSIVE INTERNET: SPEECH, PRIVACY, AND REPUTATION. Edited by Saul Levmore & Martha C. Nussbaum. Cambridge, Mass.: Harvard University Press. 2010. Pp. vi, 290. \$27.95. There is no question that for all its benefits, the internet can serve as a forum for anonymous, negative, and "low-value" speech (p. 182), and provide a means for the disclosure of private information far beyond the scope intended. Once disclosed, information on the internet is "(1) permanent, (2) divorced from context, and (3) available to anyone" (p. 156). Its potential to destroy reputations is sobering. *The Offensive Internet* faces head-on the thorny issues surrounding online privacy and speech, illustrating the problem with vivid examples from the familiar world of social networking sites, blogs, and discussion forums. This accessible collection of essays, edited by Professors Saul Levmore and Martha Nussbaum, will engage any reader while proposing and scrutinizing potential remedies for harm caused by offensive online speech. Can privacy torts provide redress? To what extent can the government regulate expression on the internet consistent with the First Amendment? Should service providers and website operators be held liable for offensive postings made by third parties? Should they be required to remove offensive material when given notice? *The Offensive Internet* explores these questions and more as it examines the nature of — and balance between — free speech and privacy on the internet.

LAW AND HAPPINESS. Edited by Eric A. Posner & Cass R. Sunstein. Chicago, Ill.: University of Chicago Press. 2010. Pp. 358. \$25.00. Public policy literature has long been dominated by economic efficiency arguments, but some scholars have recently advocated a “happiness approach” based on individuals’ subjective evaluations of their own lives. In a collection of papers first presented at a conference at the University of Chicago Law School, Professors Eric Posner and Cass Sunstein assemble happiness research as it relates to law and public policy. Some papers discuss happiness methodology generally, including comparative advantages to a traditional preference approach and trends in self-reported happiness over recent decades. Papers specific to the legal world range from tax to crime, but one of the most intriguing topics focuses on the implications of happiness research for the calculation of noneconomic damage awards. Sunstein posits that judges and juries systematically exaggerate pain and suffering awards because they fail to account for adaptation’s effect on happiness over time. Other scholars, conversely, suggest that this interpretation of pain and suffering is too literal and that society should “abandon the illusion that damage awards should compensate for hedonic losses” (p. 208). The book as a whole provides a compelling snapshot of an underutilized methodology and its application to a legal world in which happiness rarely constitutes a guiding objective.

LAW’S IMAGINED REPUBLIC: POPULAR POLITICS AND CRIMINAL JUSTICE IN REVOLUTIONARY AMERICA. By Steven Wilf. New York, N.Y.: Cambridge University Press. 2010. Pp. xii, 329. \$25.99. Arguing that “law is imagined before it is constructed” (p. 194), Professor Steven Wilf’s new book uses the public discussions of crimes and criminal cases to demonstrate how the rule of law became a center piece of the new American republic. Rather than constitutional law debates, Wilf argues that discussions of actual crimes and proposed criminal statutes captivated all members of Revolutionary America, and through these discussions American radicals mobilized the public against England. Focusing on the period between the Seven Years’ War in 1756 and the French Revolution in the 1789, each example pieces together a variety of contemporaneous sources revealing the intertextual analysis Americans used to form their visions of criminal law. Imagining English law as a single rule that sentenced all criminals to capital punishment, Americans consequently favored lighter sentences and more public participation. By the time of the French Reign of Terror, however, the violent consequences of participation by “common people in questions of criminal justice” (p. 11), caused Americans to give power over the law to legislatures and courts. Wilf’s use of compelling case studies to convincingly exemplify his argument alters the conventional view of how the law developed in Revolutionary America.