
RECENT PUBLICATIONS

LAW AND THE GAY RIGHTS STORY: THE LONG SEARCH FOR EQUAL JUSTICE IN A DIVIDED DEMOCRACY. By Walter Frank. New Brunswick, N.J.: Rutgers University Press. 2014. Pp. ix, 236. \$29.95. “Just how did it come about that we went from a nation that a few decades ago felt threatened by the idea of gays even meeting together to a nation in which increasing majorities of Americans support the legal gains that were unthinkable just a few decades ago?” (p. 1). In *Law and the Gay Rights Story*, litigator and author Walter Frank answers this question through an in-depth look at the court cases and events of the last half-century that contributed to the recognition of gay rights in the United States. Frank explores the constitutional issues surrounding, and the two recent Supreme Court cases involving, same-sex marriage, while also comprehensively considering the legal issues pertaining to other major goals of the gay rights movement, such as workplace equality, safe school environments, ending anti-gay violence, and relationship recognition. The balance of deep treatment of legal issues, vivid event coverage, honest critiques of the movement, and particular attention to the individuals who faced enormous risks fighting for gay rights makes this book an engaging and meaningful read.

COMPARATIVE MATTERS: THE RENAISSANCE OF COMPARATIVE CONSTITUTIONAL LAW. By Ran Hirschl. New York, N.Y.: Oxford University Press. 2014. Pp. xi, 304. \$45.00. Despite the global spread of constitutionalism over the last few decades and the resultant renaissance of the field of comparative constitutional law, there has been virtually no attempt to define the essence of the “comparative” aspect of the discipline. *Comparative Matters* fills this gap by examining the history and analytical underpinnings of comparative constitutional law. Professor Ran Hirschl’s latest work first explores past attempts to engage with and learn from the constitutive laws of other nations, highlighting in particular the dynamic interaction between necessity, inquisitiveness, and politics in these studies. The book then proceeds to identify the boundaries of comparative constitutional inquiries and the social sciences. Ultimately, Professor Hirschl argues that the sharp line between constitutional law and the social sciences needs to be relaxed, as an interdisciplinary dialogue is crucial to the project of fully grasping and explicating comparative constitutional law. This approachable book thus not only offers a compelling account of the development, parameters, and methodologies of comparative constitutional inquiry, but also provides affirmative directions aimed at sustaining and even expanding the field’s current renaissance.

CAPITALISM V. DEMOCRACY: MONEY IN POLITICS AND THE FREE MARKET CONSTITUTION. By Timothy K. Kuhner. Stanford, Cal.: Stanford University Press. 2014. Pp. xiii, 360. \$27.95. America depends on two foundational institutions — democracy and capitalism. Although each is based on values central to American ideals, the interaction of these institutions can be mutually corrosive. In *Capitalism v. Democracy*, Professor Timothy Kuhner convincingly shows that by blurring the line between economic and democratic values and rationalities, the legal regime governing money in politics has made this corrosion manifest. Professor Kuhner's impressive book brings economic and political theory to bear on the evolution of the constitutional law of democracy, which he argues not only permits but "amplifie[s]" the substitution of democratic values for free-market notions of economic competition in the political sphere (p. xi). The upshot of subjecting economic competition to a regime of constitutional rights is the loss not only of democracy but also of capitalism: innovation-producing economic competition is neglected amid battles over political influence. Kuhner ultimately determines that "[t]he free market theory now governing the law of democracy is so comprehensive and absolute" that only a constitutional amendment or a change in the Court's composition could properly separate politics from economics (p. 93). Professor Kuhner's timely book will interest scholars and reformers alike.

IN OUR HANDS: THE STRUGGLE FOR U.S. CHILD CARE POLICY. By Elizabeth Palley and Corey S. Shdaimah. New York, N.Y.: New York University Press. 2014. Pp. xi, 276. \$30.00. Professors Elizabeth Palley and Corey Shdaimah advocate a paradigm shift in how childcare policy is thought of in America today. In their view, childcare should not be seen as an individualized concern subordinate to and disconnected from other policy issues. Rather, they argue, childcare should be "framed as part of larger universal policies to support families" (p. 13). The authors trace the history of childcare debates, looking at proposed legislation from the past four decades. They describe a shift from attempts at comprehensive childcare policy in the 1970s and 1980s to focus in the 1990s on childcare as a poverty issue. The only childcare legislation actually enacted — the 1993 Family and Medical Leave Act — provided only short-term, emergency relief. Today, childcare policy remains inadequate and advocacy groups remain largely unsuccessful in reframing debates around childcare policy, due in part to a lack of coordination among advocacy groups. What is needed, the authors conclude, is a "revolution" — but that revolution still seems far off (p. 220).

ON DEMOCRACY'S DOORSTEP: THE INSIDE STORY OF HOW THE SUPREME COURT BROUGHT "ONE PERSON, ONE VOTE" TO THE UNITED STATES. By J. Douglas Smith. New York, N.Y.: Hill and Wang. 2014. Pp. 370. \$35.00. *On Democracy's Doorstep* tells the story behind the Warren Court's famous political reapportionment decisions. In a series of cases in the 1960s, the Supreme Court ruled that state legislative districts must be drawn to distribute voting power equally among the state's citizens. The most well-known decisions, *Baker v. Carr* and *Reynolds v. Sims*, inaugurated the cherished "one person, one vote" principle. Through these cases, the Warren Court took great strides toward enabling American democracy to more faithfully represent the interests of all voters, no matter where in a state they resided. In the Court's view, political malapportionment presented a problem with a pressing need for judicial intervention. Yet the Court's decision to assert itself provoked tremendous controversy and huge backlash, very nearly culminating in a constitutional amendment to overturn the slew of decisions now seen as indispensable. J. Douglas Smith's book takes readers behind the scenes to recapture the high drama that allowed decisions like *Baker* and *Reynolds* to emerge and, ultimately, to stick.

MORAL MINORITIES AND THE MAKING OF AMERICAN DEMOCRACY. By Kyle G. Volk. New York, N.Y.: Oxford University Press. 2014. Pp. xi, 291. \$34.95. The tension between majority rule and minority rights is as old as the American Republic. In this timely book, Professor Kyle G. Volk artfully explains the competing forces and shifting political coalitions in the mid-nineteenth century that ultimately constructed the modern paradigms of morality politics, majority rule, and minority rights that still govern our democratic landscape today. In the 1820s, a broad range of social groups began protesting majoritarian laws that they perceived as tyrannical — from laws limiting business activities on Sundays to laws enforcing slavery and antimiscegenation. Yet at the same time, mass-participation democracy was becoming a force for populist empowerment, giving *more* legitimacy to laws and leaders supported by majorities rather than by an elite few. Simultaneously, white Protestants fought to retain their political primacy by advocating for new "morality" laws. Professor Volk focuses on three of these efforts — Sabbath reform, temperance, and radical abolition — and how these movements gave rise to the push and pull of modern majoritarian morality politics and corresponding minority rights. In this engaging historical account, Professor Volk provides perspective that illuminates political movements of both the 1800s and today.