

UNPUBLISHED OPINIONS

BURGER

BERNARD SCHWARTZ

The Unpublished Opinions Of The Burger Court

Michael S. Mayer

The Unpublished Opinions Of The Burger Court:

The Unpublished Opinions of the Burger Court Bernard Schwartz, 1988 A companion to Oxford's The Unpublished Opinions of the Warren Court this book contains the draft opinions that were prepared by the Justices in the cases included as well as a short historical preface of each case and an analysis of the legal events occurring after the drafts were sent to The Unpublished Opinions of the Warren Court Bernard Schwartz, 1985 An important contribution to constitutional literature this collection of ten unpublished decisions by the Warren Court puts the decision making process of the Supreme Court in a new light By following the major changes that occur in each case from the circulation of tentative majority opinions to the final issuance of opinion the book portrays how the justices communicate with each other and how they are influenced by each other s arguments Interpretations and commentaries by the author illuminate the significance of each case and provide insight into the different judicial philosophies and personal styles of the justices This book will be of substantial value to law schools law libraries bar associations and lawyers practicing in the field of constitutional law Burger Court Charles M. Lamb, Stephen C. Halpern, 1991 This volume offers valuable insights into the thirteen justices who served on the Supreme Court while Warren E Burger was chief justice from 1969 to 1986 Each chapter focuses on one of the thirteen beginning with a brief introduction and biographical sketch and then analyzing the individual justice s contributions to major areas and issues of constitutional law The Unpublished Opinions of the Rehnquist Court the late Bernard Schwartz, 1996-01-04 In the last twenty years the veil of secrecy surrounding the workings of the United States Supreme Court has been lifted Justice Thurgood Marshall's controversial decision to make his papers available to the public ushered in a new era of openness about the operation of the Court but not without criticism from Chief Justice William H Rehnquist The Unpublished Opinions of the Rehnquist Court provides a behind the scenes look at the Supreme Court showing how changes between the drafts and the Justices final opinions have created substantial differences in the outcome of the Court's decisions As with his two previous works The Unpublished Opinions of the Warren Court and the Unpublished Opinions of the Burger Court author Bernard Schwartz uses private court papers to follow these decisions and explore the key role and responsibility of the Chief Justice Among the ten cases examined by Schwartz are key abortion cases Hodgson v Minnesota and Webster v Reproductive Health Services the original draft of which would have virtually overruled Roe v Wade as well as a civil rights case Patterson v McLean Credit Union Schwartz considers the draft opinions and explains why the drafts were not issued as the final opinions and dissents in these cases In particular he shows what would have happened if the draft opinions had come down as the final opinions The Unpublished Opinions of the Rehnquist Court serves to clarify and explore the actual operation of the judicial decision making process It will be fascinating and informative reading for attorneys judges law students politicians and anyone interested in the mechanics of the nation's highest Court **The Burger Court** the late Bernard Schwartz, 1998-09-10 Warren E Burger served as Chief Justice of the Supreme Court from 1969 to 1987 an

often tumultuous period in which the Court wrestled with several compelling constitutional issues United States v Nixon set the stage for the resignation of a President Roe v Wade created a nationwide debate that is as divisive today as ever before Lemon v Kurtzman attempted to enunciate a clear standard for vexing church state issues and the Pentagon Papers case was a landmark freedom of the press decision An impressive collection of writings by legal scholars and practitioners including many by people who worked directly or indirectly with the Court itself The Burger Court is the first truly systematic review of the Court's activity during Warren Burger's tenure Such distinguished contributors as Derrick Bell Robert Drinan Anthony Lewis and Mark Tushnet review individual cases and jurisprudential trends in order to render comprehensive judgments of the Court's accomplishments and shortcomings The essays in this volume were gathered by the late Bernard Schwartz one of America's most revered scholars of constitutional law and the editor of this book s well received predecessor The Warren Court A Retrospective OUP 1996 As the finest overview to date of this Court's legacy and significance The Burger Court will greatly interest anyone with a taste for constitutional issues or recent American history The Warren Court: A Retrospective the late Bernard Schwartz,1996-10-10 A judge made revolution The very term seems an oxymoron vet this is exactly what the Supreme Court under Chief Justice Earl Warren achieved In Bernard Schwartzs latest work based on a conference at the University of Tulsa College of Law we get the first retrospective on the Warren Court a detailed analysis of the Courts accomplishments including original pieces by well known judges professors lawyers popular writers such as Anthony Lewis David Halberstam David J Garrow and a rare personal remembrance by Justice William J Brennan Jr The Warren Court A Retrospective begins with an examination of the Courts decisions in a variety of different fields such as equal protection freedom of speech freedom of the press and criminal law The work continues with The Justices an intimate look at the principal protagonists in the Courts operation Then in A Broader Perspective the book looks at the Court from an historical perspective demonstrating its impact on the legal profession and jurisprudence its international impact and its legacy Both readable and informative The Warren Court A Retrospective provides an invaluable source for anyone interested in the Court that did so much to change America Crafting Law on the Supreme Court Forrest Maltzman, James F. Spriggs, Paul J. Wahlbeck, 2000-07-03 Material is gleaned from internal memos circulated among justices on the Supreme Court to systematically account for the building of majority opinions. The authors argue that at the heart of this process are policy seeking justices who are constrained by the choices made by the other justices By strategically using threats signals and persuasion justices attempt to influence the behavior of their colleagues on the bench Evidence derived from the recently released papers of justices Brennan Douglas Marshall and Powell is used to test the authors theory of opinion writing The portrait of the Supreme Court that emerges stands in sharp contrast to the conventional portrait where justices act solely on the basis of the law or their personal policy preferences This book provides a fascinating glimpse of how the Court crafts the law Constitutional Courts and Deliberative Democracy Conrado Hübner Mendes, 2013-12-19 Contemporary democracies

have granted an expansive amount of power to unelected judges that sit in constitutional or supreme courts This power shift has never been easily squared with the institutional backbones through which democracy is popularly supposed to be structured The best institutional translation of a government of the people by the people and for the people is usually expressed through elections and electoral representation in parliaments Judicial review of legislation has been challenged as bypassing that common sense conception of democratic rule The alleged democratic deficit behind what courts are legally empowered to do has been met with a variety of justifications in favour of judicial review One common justification claims that constitutional courts are in comparison to elected parliaments much better suited for impartial deliberation and public reason giving Fundamental rights would thus be better protected by that insulated mode of decision making This justification has remained largely superficial and sometimes too easily embraced This book analyses the argument that the legitimacy of courts arises from their deliberative capacity It examines the theory of political deliberation and its implications for institutional design Against this background it turns to constitutional review and asks whether an argument can be made in support of judicial power on the basis of deliberative theory Supreme Court Decision-Making Cornell W. Clayton, Howard Gillman, 1999 What influences decisions of the U S Supreme Court For decades social scientists focused on the ideology of individual justices Supreme Court Decision Making moves beyond this focus by exploring how justices are influenced by the distinctive features of courts as institutions and their place in the political system Drawing on interpretive historical institutionalism as well as rational choice theory a group of leading scholars consider such factors as the influence of jurisprudence the unique characteristics of supreme courts the dynamics of coalition building and the effects of social movements The volume s distinguished contributors and broad range make it essential reading for those interested either in the Supreme Court or the nature of institutional politics Original essays contributed by Lawrence Baum Paul Brace Elizabeth Bussiere Cornell Clayton Sue Davis Charles Epp Lee Epstein Howard Gillman Melinda Gann Hall Ronald Kahn Jack Knight Forrest Maltzman David O Brien Jeffrey Segal Charles Sheldon James Spriggs II and Paul Wahlbeck F. Davis,1995-08-01 During the 1960s a group of lawyers in collaboration with welfare recipient activists mounted a legal campaign to create a constitutional right to welfare This book tells the behind the scenes story of that campaign the strategies successes failures and frustrations Courting Disaster Martin Garbus, 2002 Discusses how seemingly small decisions by the Court can bring on extreme change in American law and ultimately in American society and emphasizes the importance of restoring the Court's bipartisanship and objectivity A ^AHistory of the Supreme Court the late Bernard Schwartz, 1995-02-23 When the first Supreme Court convened in 1790 it was so ill esteemed that its justices frequently resigned in favor of other pursuits John Rutledge stepped down as Associate Justice to become a state judge in South Carolina John Jay resigned as Chief Justice to run for Governor of New York and Alexander Hamilton declined to replace Jay pursuing a private law practice instead As Bernard Schwartz shows in this landmark history the Supreme Court has indeed

travelled a long and interesting journey to its current preeminent place in American life In A History of the Supreme Court Schwartz provides the finest most comprehensive one volume narrative ever published of our highest court With impeccable scholarship and a clear engaging style he tells the story of the justices and their jurisprudence and the influence the Court has had on American politics and society With a keen ability to explain complex legal issues for the nonspecialist he takes us through both the great and the undistinguished Courts of our nation's history He provides insight into our foremost justices such as John Marshall who established judicial review in Marbury v Madison an outstanding display of political calculation as well as fine jurisprudence Roger Taney whose legacy has been overshadowed by Dred Scott v Sanford Oliver Wendell Holmes Louis Brandeis Benjamin Cardozo and others He draws on evidence such as personal letters and interviews to show how the court has worked weaving narrative details into deft discussions of the developments in constitutional law Schwartz also examines the operations of the court until 1935 it met in a small room under the Senate so cramped that the judges had to put on their robes in full view of the spectators But when the new building was finally opened one justice called it almost bombastically pretentious and another asked What are we supposed to do ride in on nine elephants He includes fascinating asides on the debate in the first Court for instance over the use of English style wigs and gowns the decision gowns no wigs and on the day Oliver Wendell Holmes announced his resignation the same day that Earl Warren as a California District Attorney argued his first case before the Court The author brings the story right up to the present day offering balanced analyses of the pivotal Warren Court and the Rehnquist Court through 1992 including of course the arrival of Clarence Thomas In addition he includes four special chapters on watershed cases Dred Scott v Sanford Lochner v New York Brown v Board of Education and Roe v Wade Schwartz not only analyzes the impact of each of these epoch making cases he takes us behind the scenes drawing on all available evidence to show how the justices debated the cases and how they settled on their opinions Bernard Schwartz is one of the most highly regarded scholars of the Supreme Court author of dozens of books on the law and winner of the American Bar Association's Silver Gavel Award In this remarkable account he provides the definitive one volume account of our nation s highest court **The Eisenhower Years** Michael S. Mayer, 2009 The 34th U S president to hold office Dwight D Eisenhower won America over with his irresistible I like Ike slogan Bringing to the presidency his prestige as a commanding general during World War II he worked incessantly during his two terms to ease the tensions of the cold war Pursuing the moderate policies of Modern Republicanism he left a legacy of a stronger and more powerful nation From his crucial role in support of Brown v Board of Education to the National Defense Education Act The Eisenhower Years provides a well balanced study of these politically charged years Biographical entries on key figures of the Eisenhower era such as Allen W Dulles Joseph R McCarthy and Rosa Parks combine with speeches such as the Military Industrial Complex speech the Open Skies proposal the disturbance at Little Rock address Eisenhower Doctrine and his speech after the Soviet launch of Sputnik to give an in depth look at the executive actions of this administration

Burger Court Tinsley E. Yarbrough, 2000-11-21 Describes the rulings which were made during the years Warren Earl Burger served as chief justice of the United States Supreme Court from 1969 to 1986 **Abuse of Discretion** Clarke D. Forsythe, 2013-10-14 Based on 20 years of research including an examination of the papers of eight of the nine Justices who voted in Roe v Wade and Doe v Bolton Abuse of Discretion is a critical review of the behind the scenes deliberations that went into the Supreme Court's abortion decisions and how the mistakes made by the Justices in 1971 1973 have led to the turmoil we see today in legislation politics and public health The first half of the book looks at the mistakes made by the Justices based on the case files the oral arguments and the Justices papers The second half of the book critically examines the unintended consequences of the abortion decisions in law politics and women s health Why do the abortion decisions remain so controversial after almost 40 years despite more than 50 000 000 abortions numerous presidential elections and a complete turnover in the Justices Why did such a sweeping decision with such important consequences for public health producing such prolonged political turmoil come from the Supreme Court in 1973 Answering those questions is the aim of this book The controversy over the abortion decisions has hardly subsided and the reasons why are to be found in the Justices deliberations in 1971 1972 that resulted in the unprecedented decision they issued Discuss Abuse of Discretion on Twitter using hashtag AbuseOfDiscretion Covering the United States Supreme Court in the Digital Age Richard Davis, 2014-08-11 This book examines the relationship between justices and the press including coverage of the institution and the effects of coverage on public opinion Making Constitutional Law Mark Tushnet, 1997-05-01 Following on Making Civil Rights Law which covered Thurgood Marshall's career from 1936 1961 this book focuses on Marshall's career on the Supreme Court from 1961 1991 where he was the first African American Justice Based on thorough research in the Supreme Court papers of Justice Marshall and others this book describes Marshall s approach to constitutional law in areas ranging from civil rights and the death penalty to abortion and poverty It locates the Supreme Court from 1967 to 1991 in a broader socio political context showing how the nation s drift toward conservatism affected the Court s debates and decisions American Studies Jack Salzman, 1990-05-25 This volume supplements the acclaimed three volume set published in 1986 and consists of an annotated listing of American Studies monographs published between 1984 and 1988 There are more than 6 000 descriptive entries in a wide range of categories anthropology and folklore art and architecture history literature music political science popular culture psychology religion science and technology and sociology What's Really Going on with Pro-Roe V. Wade Catholic Politicians Philip A. Rafferty, 2011-05-03 No committed Christian would support the proposition that a human being may be killed because he has yet to receive his future state of being eternal life Yet the pro Roe Catholic politician supports the position that a human fetus may be killed because it cannot be certainly demonstrated that this fetus has received that state of being which makes him a human being Suppose the fetus is not yet a human being and is aborted Is the pro Roe Catholic politician prepared to demonstrate that this fetus does not hereby lose his opportunity to receive

eternal life Is not this politician supporting the denial to another what he would not think of denying to himself eternal life in Jesus Christ Since Roe fifty million human fetuses have been launched into eternity by pointy medical instruments Roe and its progeny say that all of this killing is constitutionally permissible because in keeping with the English common law the human fetus does not qualify as a due process clause person What if the Roe justices got this wrong for lack of a working knowledge of the status of the human fetus and abortion at the English common law Philip Rafferty through a working knowledge of abortion prosecution at the English common law demonstrates that the Roe justices certainly got this wrong So forget everything you think you know about the abortion controversy It s time to knowWhat s Really Going On The overruling of Roe v Wade is considered a dead issue Rafferty has risen up this dead issue on Roe's own burial grounds And he has done so with unparalleled pointed legal scholarship Ken R Hughey American fighter pilot and Hanoi Hilton Prisoner of War and Sexuality David J. Garrow, 2015-07-07 Pulitzer Prize winning author David J Garrow's stirring and essential history of the politics of abortion and America's battle for the right to choose In 1973 the Supreme Court handed down its landmark Roe v Wade decision legalizing abortion and more than forty years later the issue continues to spark controversy and divisiveness But behind this historic legal case lie the battles women fought to establish their rights to use contraceptives and choose to have an abortion Liberty and Sexuality traces these political and legal struggles in the decades leading up to Roe v Wade including the momentous 1965 Supreme Court ruling in Griswold v Connecticut that established a constitutional right to privacy Garrow personalizes the struggles by detailing the vital contributions made by dozens of crusaders who tirelessly paved the way This expansive and substantial work also addresses the threats to sexual privacy and the legality of abortion that have risen since Roe v Wade With abortion still a contentious subject on the national political landscape Liberty and Sexuality is not just a historical account of the right to choose but an indispensable read about preserving a freedom that continues to divide America

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