

FREDERICK SCHAUER

THINKING LIKE A LAWYER

A NEW INTRODUCTION
TO LEGAL REASONING

This is a book about thinking and reasoning. More particularly, it is about the thinking, reasoning, and argumentative methods of lawyers and judges, which may or may not be different from the thinking, reasoning, and argumentative methods of ordinary people. Whether lawyers think, reason, and argue differently from ordinary folk is a question and not an axiom, but it is nonetheless the case that certain techniques of reasoning are thought to be characteristic of legal decision-making.

Thinking Like A Lawyer An Introduction To Legal Reasoning

Mark Steyvers



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understand lawyering beyond the traditional warrior metaphor Drawing on his extensive experience at the intersection of real world law and business issues Professor Lipshaw presents a sophisticated philosophical argument that the pure lawyering of traditional legal education is agnostic to either truth or moral value of outcomes He demonstrates pure lawyering's potential both for illusions of certainty and cynical instrumentalism and the consequences of both when lawyers are called on as dealmakers policymakers and counsellors This book offers an avenue for getting beyond or unlearning merely how to think like a lawyer It combines legal theory philosophy of knowledge and doctrine with an appreciation of real life judgment calls that multi disciplinary lawyers are called upon to make The book will be of great interest to scholars of legal education legal language and reasoning as well as professors who teach both doctrine and thinking and writing skills in the first year law school curriculum and for anyone who is interested in seeking a perspective on thinking like a lawyer beyond the litigation arena

The ^AOxford Handbook of U.S. Education Law, 2021-06-22 The Oxford Handbook of U S Education Law includes more than three dozen chapters by leading education law and policy scholars It presents a comprehensive description of the law that regulates public K 12 education today and suggests legal and policy changes for the next decade Chapters cover a wide variety of topics including virtual schooling civil rights student privacy and safety education federalism school choice and special education The Handbook is an essential guide for anyone interested in the law and policy that shapes K 12 education in the United States

Analogical Reasoning in Law Maciej

Kosowski, 2019-04-02 This work tackles the most intriguing type of reasoning which one may employ within the field of law In addition to the merits and drawbacks of legal analogy it discusses the orthodox approaches to it together with their critical analysis also posing challenges that these conceptions have difficulty in managing As an alternative the book advances an account of legal analogical reasoning that correlates well with the division into rational and intuitive thinking that occurs in contemporary psychology By doing so many of the unique properties of legal analogy which have been traditionally associated with it and which have often been difficult to explain become readily understandable Moreover the very source of the almost mystical faith in power and infallibleness of such analogy is revealed here while this faith astonishing or not not only escapes condemnation but is shown to be warranted from a scientific point of view Finally the book also presents vast scope of application premises schematic structures and factors able to influence the force of legal analogy

University of Chicago Law Review: Volume 80, Number 4 - Fall 2013 University of Chicago Law Review, 2014-01-02 This fourth issue of 2013 features articles from internationally recognized legal scholars and extensive research in Comments authored by University of Chicago Law School students Contents of Vol 80 No 4 include ARTICLES Bankruptcy Law as a Liquidity Provider by Kenneth Ayotte David A Skeel Jr Impeaching Precedent by Charles L Barzun Copyright in Teams by Anthony J Casey Andres Sawicki Inside or Outside the System by Eric A Posner Adrian Vermeule REVIEW ESSAY Francis Lieber and the Modern Law of War by Paul Finkelman COMMENTS Having Their Cake and Eating It Too Post emancipation Child

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Legal Reasoning in Environmental Law Douglas Fisher, 2013-09-30 I am afraid that an endorsement of this kind however condense and packed with praise cannot do justice to Doug Fisher's latest book A respected and seasoned environmental law scholar Fisher skilfully reminds us that law is about language and that

Intellectual Property and the Common Law Shyamkrishna Balganesh, 2013-09-02 Leading scholars of intellectual property and information policy examine what the common law can contribute to discussions about intellectual property's scope structure and function

Failures of American Methods of Lawmaking in Historical and Comparative Perspectives James R. Maxeiner, 2018-03-08 In this book James R Maxeiner takes on the challenge of demonstrating that historically American law makers did consider a statutory methodology as part of formulating laws In the nineteenth century when the people wanted laws they could understand lawyers inflicted judge made statute destroying common law on them Maxeiner offers the cure for common law in the form of sensible statute law Building on this historical evidence Maxeiner shows how rule making in civil law jurisdictions in other countries makes for a far more equitable legal system Sensible statute laws fit together one statute governs as opposed to several laws that even lawyers have trouble disentangling In a statute law system lawmakers make laws for the common good in sensible procedures and judges apply sensible laws and do not make them This book shows how such a system works in Germany and would be a solution for the American legal system as well

Strength to Strength Michael L. Satlow, 2018-11-16 Essays that engage the scholarship of Shaye J D Cohen The essays in Strength to Strength honor Shaye J D Cohen across a range of ancient to modern topics The essays seek to create an ongoing conversation on issues of identity cultural interchange and Jewish literature and history in antiquity all areas of particular interest for Cohen Contributors include Moshe J Bernstein Daniel Boyarin Jonathan Cohen Yaakov Elman Ari Finkelstein Charlotte Elisheva Fonrobert Steven D Fraade Isaiah M Gafni Gregg E Gardner William K Gilders Martin Goodman Leonard Gordon Edward L Greenstein Erich S Gruen Judith Hauptman Jan Willem van Henten Catherine Hezser Tal Ilan Richard Kalmin Yishai Kiel Ross S Kraemer Hayim Lapin Lee I Levine Timothy H Lim Duncan E MacRae Ivan Marcus Mahnaz Moazami Rachel Neis Saul M Olyan Jonathan J Price Jeffrey L Rubenstein Michael L Satlow Lawrence H Schiffman Daniel R Schwartz Joshua Schwartz Karen Stern Stanley Stowers and Burton L Visotzky Features A full bibliography of Cohen's published works An essay on the contributions of Cohen

Legal Scholarship as a Source of Law Fábio P.

Shecaira,2013-07-09 This book is about the use of legal scholarship by judges It discusses the possibility that legal scholarship may function as a genuine source of law in modern municipal legal systems The book advances a number of claims some conceptual some empirical some normative The major conceptual claims are found in Chapters 2 and 3 where a general account of the notion of a source of law is provided Roughly sources of law are documents or practices e g statutes judicial decisions official customs from which norms can be derived that function as sources of content independent reasons for judges to decide legal cases one way or another The relevant notion of content independence is derived with qualifications from H L A Hart s jurisprudence Indeed the book s analysis of the concept of a source of law relies at various points on Hartian insights about law and legal reasoning Chapter 4 argues that legal scholarship or more precisely a particular type of legal scholarship that might be described as standard or doctrinal can be and indeed is used as a source of law in modern legal systems The conclusion that legal scholarship is used as a source of law and thus as a source of content independent reasons for action may come as a surprise to those who associate judicial recourse to legal scholarship with judicial activism This association is discussed and criticized in Chapters 5 and 6 It is argued that in spite of a relatively common opinion to the contrary legal scholarship can be used to mitigate discretion In fact it is precisely because it can be used in this way that judges sometimes refer to scholarship deceptively and suggest that it limits discretion in situations in which it really does not The concluding chapter addresses potential objections not explicitly discussed in earlier chapters

Legal Reason Lloyd L. Weinreb,2016-09-29 Legal Reason describes and explains analogical reasoning the distinctive feature of legal argument It challenges the prevailing view that analogical reasoning is a logically flawed defective form of deductive reasoning Drawing on work in epistemology and cognitive psychology the book shows that analogical reasoning in the law is the same as that used by everyone routinely in ordinary life and that it is a valid form of reasoning derived from the innate human capacity to recognize the general in the particular The use of analogical reasoning in law is dictated by the nature of law which calls for the application of general rules to particular facts Critiques of the first edition of the book are addressed directly and objections answered in a new chapter Written for scholars students and persons interested in law Legal Reason is written in accessible prose with examples drawn from the law and everyday experience **The New**

Lawyer, 3rd Edition Nickolas James,Rachael Field,Jackson Walkden-Brown,2023-10-23 The New Lawyer 3rd Edition has been updated to ensure that first year law students do not feel overwhelmed by the transition to law school This book addresses the law Threshold Learning Outcomes TLOs and outlines what students should know understand and be able to do at the conclusion of their first year of study **The Authority of the Divine Law** Yosef Bronstein,2024-04-02 Many Jewish

groups of late antiquity assumed that they were obligated to observe the Divine Law This book attempts to study the various rationales offered by these groups to explain the authority that the Divine Law had over them Second Temple groups tended to look towards philosophy or metaphysics to justify the Divine Law s authority The tannaim though formulated legal

arguments that obligate Israel to observe the Divine Law While this turn towards legalism is pan tannaitic two distinct legal arguments can be identified in tannaitic literature These specific arguments about the Divine Law s authority link to a set of issues regarding the tannaim s conception of Divine Law and of Israel s election

Pragmatics and Law Francesca Poggi,Alessandro Capone,2016-12-01 This volume is the second part of a project which hosts an interdisciplinary discussion about the relationship among law and language legal practice and ordinary conversation legal philosophy and the linguistics sciences An international group of authors from cognitive science philosophy of language and philosophy of law question about how legal theory and pragmatics can enrich each other In particular the first part is devoted to the analysis of how pragmatics can solve problems related to legal theory What can pragmatics teach about the concept of law and its relationship with moral and in particular about the eternal dispute between legal positivism and legal naturalism What can pragmatics teach about the concept of law and or legal disagreements The second part is focused on legal adjudication it aims to construct a pragmatic apparatus appropriate to legal trial and or to test the tenure of the traditional pragmatics tools in the field The authors face questions such as Which interesting pragmatic features emerge from legal adjudication What pragmatic theories are better suited to account for the practice of judgment or its particular aspects such as the testimony or the binding force of legal precedents Which pragmatic and socio linguistic problems are highlighted by this practice

The Routledge Companion to Philosophy of Law Andrei Marmor,2012-04-27 The Routledge Companion to the Philosophy of Law provides a comprehensive non technical philosophical treatment of the fundamental questions about the nature of law Its coverage includes law s relation to morality and the moral obligations to obey the law the main philosophical debates about particular legal areas such as criminal responsibility property contracts family law law and justice in the international domain legal paternalism and the rule of law The entirely new content has been written specifically for newcomers to the field making the volume particularly useful for undergraduate and graduate courses in philosophy of law and related areas All 39 chapters written by the world s leading researchers and edited by an internationally distinguished scholar bring a focused philosophical perspective to their subjects The Routledge Companion to the Philosophy of Law promises to be a valuable and much consulted student resource for many years

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