

A Matter Of Interpretation

A Matter of Interpretation The Interpretation of Statutes and General Clauses Acts (central and States) with Words and Phrases Reports of Cases and Matters Determined by the Supreme Court and Court of Appeals of South Carolina The Journal of Proceedings and Addresses of the National Educational Association The New Zealand Law Reports Report Social and Ethical Interpretations in Mental Development The Commonwealth Law Reports Matter of Interpretation A Translation of the Old Testament Scriptures from the Original Hebrew Deutsche Länderberichte (Zivilrecht und Zivilprozessrecht) Statutory Interpretation Report of the Council of FAO. Reports of Cases Before the Court Awards ... 1919-1938 The Labour Laws of New Zealand Decisions Awards with Index Digest, Fourth Division Reports from Committees Notes, Critical, Illustrative, and Practical, on the Book of Daniel Antonin Scalia Narotam Singh Bindra South Carolina. Supreme Court National Educational Association (U.S.) University of Minnesota. Agricultural Experiment Station James Mark Baldwin Australia. High Court Ronald Et Al Dworkin Helen Spurrell Peter Schlechtriem Rupert Cross Court of Justice of the European Communities Great Britain. Industrial Court Great Britain. Industrial Court United States. National Railroad Adjustment Board. Fourth Division Great Britain. Parliament. House of Commons Albert Barnes

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we are all familiar with the image of the immensely clever judge who discerns the best rule of common law for the case at hand according to u s supreme court justice antonin scalia a judge like this can maneuver through earlier cases to achieve the desired aim distinguishing one prior case on his left straight

arming another one on his right high stepping away from another precedent about to tackle him from the rear until bravo he reaches the goal good law but is this common law mindset which is appropriate in its place suitable also in statutory and constitutional interpretation in a witty and trenchant essay justice scalia answers this question with a resounding negative in exploring the neglected art of statutory interpretation scalia urges that judges resist the temptation to use legislative intention and legislative history in his view it is incompatible with democratic government to allow the meaning of a statute to be determined by what the judges think the lawgivers meant rather than by what the legislature actually promulgated eschewing the judicial lawmaking that is the essence of common law judges should interpret statutes and regulations by focusing on the text itself scalia then extends this principle to constitutional law he proposes that we abandon the notion of an everchanging constitution and pay attention to the constitution s original meaning although not subscribing to the strict constructionism that would prevent applying the constitution to modern circumstances scalia emphatically rejects the idea that judges can properly smuggle in new rights or deny old rights by using the due process clause for instance in fact such judicial discretion might lead to the destruction of the bill of rights if a majority of the judges ever wished to reach that most undesirable of goals this essay is followed by four commentaries by professors gordon wood laurence tribe mary ann glendon and ronald dworkin who engage justice scalia s ideas about judicial interpretation from varying standpoints in the spirit of debate justice scalia responds to these critics featuring a new foreword that discusses scalia s impact jurisprudence and legacy this witty and trenchant exchange illuminates the brilliance of one of the most influential legal minds of our time

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