

Judges and judging in the history of the common law and civil law : from antiquity to modern times

Deskripsi Lengkap: <https://lib.ui.ac.id/detail?id=20362203&lokasi=lokal>

Abstrak

In this collection of essays, leading legal historians address significant topics in the history of judges and judging, with comparisons not only between British, American and Commonwealth experience, but also with the judiciary in civil law countries. It is not the law itself, but the process of law-making in courts, that is the focus of inquiry. Contributors describe and analyse aspects of judicial activity, in the widest possible legal and social contexts, across two millennia. The essays cover English common law, continental customary law and *ius commune*, and aspects of the common law system in the British Empire. The volume is innovative in its approach to legal history. None of the essays offer straight doctrinal exegesis; none take refuge in old-fashioned judicial biography. The volume is a selection of the best papers from the 18th British Legal History Conference"-- Provided by publisher.

"More than two hundred legal historians, from every corner of the globe, met in Oxford at the Eighteenth British Legal History Conference in early July 2007 to hear and present papers on the history of "judges and judging". A selection of the papers presented at the conference has now been revised and edited to form the chapters of this volume. Perhaps the theme of the conference and of this publication needs some initial explanation. The Legal Realists of the 1920s and 1930s rightly questioned the pre-eminence given to the study of decision-making in the courts in American legal education, and similar ideas have entered British and Commonwealth legal education in the past generation; the utterances of judges are not taken as the sum of, or even the core of, the law. But this is hardly news for legal historians. They have long been effortless, even naively unselfconscious, Realists, always concerned to understand the making of the law within the context of its time, with due attention to the society in which law is embedded and the shifting mentalities of professionals and other players in the legal system"-- Provided by publisher.

Contents Machine generated contents note: Part I. Common Law: 1. Judges and judging 1176-1307 Paul Brand; 2. Formalism and realism in fifteenth-century English law: bodies corporate and bodies natural David J. Seipp; 3. Early modern judges and the practice of precedent Ian Williams; 4. Bifurcation and the Bench: the influence of the jury on English conceptions of the judiciary John H. Langbein; 5. Sir William Scott and the law of marriage Rebecca Probert; 6. The politics of English law in the nineteenth century Michael Lobban; 7. Judges and the criminal law in England 1808-1861 Phil Handler; 8. Bureaucratic adjudication: the internal appeals of the Inland Revenue Chantal Stebbings; Part II. Continental Law: 9. Remedy of prohibition against Roman judges in civil trials Ernest Metzger; 10. The spokesmen in medieval courts: the unknown leading judges of the customary law and makers of the first continental law reports Dirk Heirbaut; 11. Superior courts in early modern France, England and the Holy Roman Empire Ulrike Muessig; 12. The Supreme Court of Holland and Zeeland judging cases in the early 18th century A. J. B. Sirks; Part III. Imperial Law: 13. 11,000 prisoners: habeas corpus, 1500-1800 Paul D. Halliday; 14. Some difficulties of colonial judging: the Bahamas 1886-1893 Martin J. Wiener; 15. Australia's early High Court, the Fourth Commonwealth Attorney-General and the 'strike of 1905' Susan Priest; 16. Judges and judging in

colonial New Zealand: where did native title fit in? David V. Williams.