

Scalia and Garner: Reading Law and the Art of Interpretation

The Art of Judicial Interpretation: Scalia and Garner's Reading Law

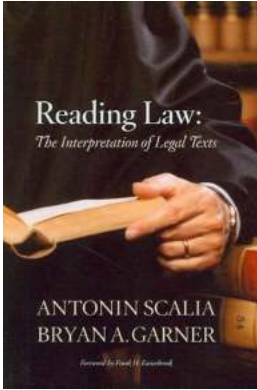
When it comes to understanding the intricacies of legal interpretation, few names stand out like those of Antonin Scalia and Bryan A. Garner. In their book "Reading Law: The Interpretation of Legal Texts," the dynamic duo explores the principles and techniques behind reading and interpreting statutes. Let's delve into the world of textualism and originalism, and uncover the secrets that Scalia and Garner share in this legal masterpiece.

The Rise of Textualism and Originalism

Scalia and Garner argue for a method known as textualism, which emphasizes the importance of interpreting statutes based on the text itself, rather than the intent of lawmakers or legislative history. This approach adheres to the original public meaning of the words used in the statute. It rejects the idea of judges imposing their own policy preferences by extensively examining legislative history or applying subjective notions of fairness.

Furthermore, the authors advocate for originalism, a doctrine closely related to textualism. Originalism suggests that the Constitution should be interpreted based on its original meaning at the time of its enactment. This approach opposes the idea of a "living constitution" that adapts and evolves to reflect societal changes. Instead, Scalia and Garner argue for a more restrained interpretation that respects the original intent of the framers.

Scalia and Garner's Reading Law: The Interpretation of Legal Texts



by Antonin Scalia (1st Edition, Kindle Edition)

★★★★☆ 4.8 out of 5

Language : English

File size : 982 KB

Text-to-Speech : Enabled

Screen Reader : Supported

Enhanced typesetting : Enabled

Word Wise : Enabled

Print length : 574 pages



The Objectivity of Textualism

One of the key aspects of textualism, as emphasized by Scalia and Garner, is its inherent objectivity. By relying on the text itself and its original public meaning, textualism provides a clear and consistent approach to statutory interpretation. This approach avoids judicial activism and ensures that the law is applied consistently across different cases and contexts.

Scalia and Garner's book provides numerous examples where textualism leads to outcomes that might not align with a judge's personal views or policy preferences. However, they argue that this is a necessary consequence of applying an objective method of interpretation. By doing so, the law's predictability and stability are preserved, allowing society to rely on a consistent legal framework.

The Role of Precedent and Stare Decisis

Although Scalia and Garner advocate for a textualist approach, they acknowledge the importance of precedent and stare decisis. Precedent refers to the principle that decisions from previous cases should guide present and future decisions. Stare decisis, Latin for "to stand by things decided," establishes the importance of adhering to established legal principles.

While textualism might seem at odds with precedent, Scalia and Garner argue that the text itself should be considered a precedent. Therefore, when interpreting a statute, the words used and their original meaning should guide the decision, taking into account existing legal principles and how they have been applied in similar cases in the past. This approach allows for the consistent application of the law while respecting the importance of precedent.

The Art of Applying Reading Law

Scalia and Garner's "Reading Law" provides a comprehensive framework for applying the principles of textualism and originalism. The book discusses numerous canons of construction, which are interpretive rules that guide the understanding of legal texts.

Some of the canons explored in the book include the "plain meaning" rule, the "series-qualifier canon," and the "last antecedent canon." Each canon serves as a tool that helps judges decipher the meaning of statutes and apply them to specific cases.

Moreover, the authors emphasize the importance of considering the text as a whole and avoiding selective quotation or cherry-picking of certain phrases or words. By examining the full context, legislative history, and the purpose behind the statute, judges can ensure a faithful and accurate interpretation.

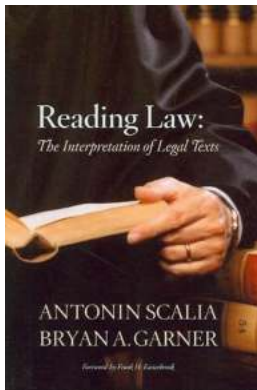
The Legacy of Scalia and Garner

Scalia and Garner's "Reading Law" has become a seminal work in the field of legal interpretation. Its influence extends beyond academia, shaping the approach of judges and legal practitioners alike. The book has sparked intense debates about the proper role of judges in interpreting statutes, and it continues to shape the way legal texts are read and understood.

While Scalia's untimely passing in 2016 marked the end of an era for the Supreme Court, his legacy lives on through his writings and the impact he made on legal interpretation. Garner, a leading authority on legal writing and an advocate for clear and concise language, ensures that Scalia's ideas and principles remain accessible to generations to come.

In "Reading Law," Scalia and Garner present a compelling argument for textualism and originalism, providing a principled approach to statutory interpretation. The book serves as a guiding light for judges and legal professionals, emphasizing the importance of objectivity and consistency in the application of the law.

As legal landscapes evolve, the legacy of Scalia and Garner's "Reading Law" continues to shape the way statutes are understood and interpreted. By adhering to the principles and techniques discussed in the book, we can navigate the complexities of legal interpretation with greater confidence and accuracy.



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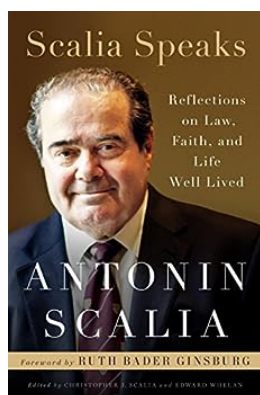
In this groundbreaking book, Scalia and Garner systematically explain all the most important principles of constitutional, statutory, and contractual interpretation in an engaging and informative style – with hundreds of illustrations from actual cases. Is a burrito a sandwich? Is a corporation entitled to personal privacy? If you trade a gun for drugs, are you “using a gun” in a drug transaction? The authors grapple with these and dozens of equally curious questions while explaining the most principled, lucid, and reliable techniques for deriving meaning from authoritative texts. Meanwhile, the book takes up some of the most controversial issues in modern jurisprudence. The authors write with a well-argued point of view that is definitive yet nuanced, straightforward yet sophisticated.



MAGDALENA
photos of Maggie Miller
by David Miller

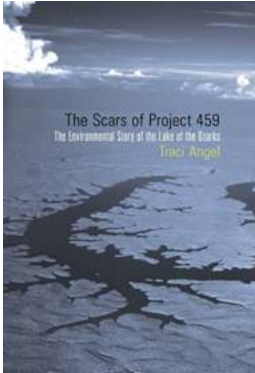
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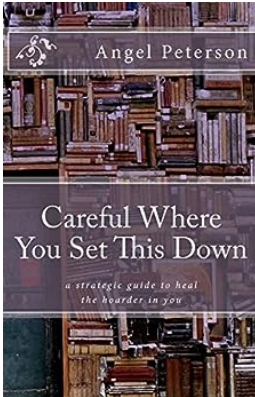
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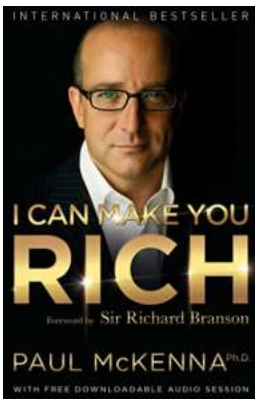
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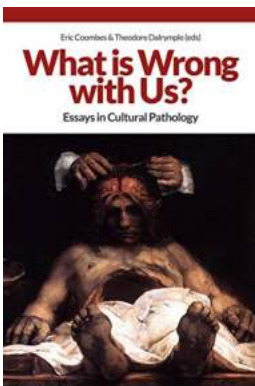
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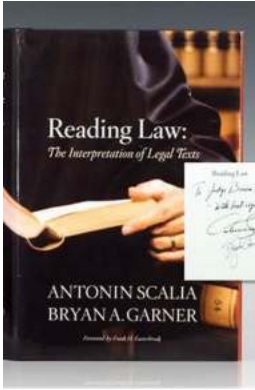
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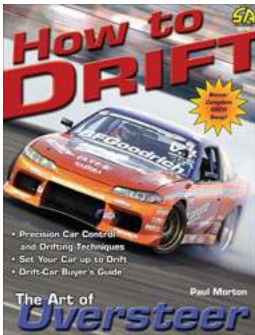
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Have you ever wondered what is wrong with us? As human beings, we often find ourselves struggling with various issues and challenges throughout our lives. From...



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