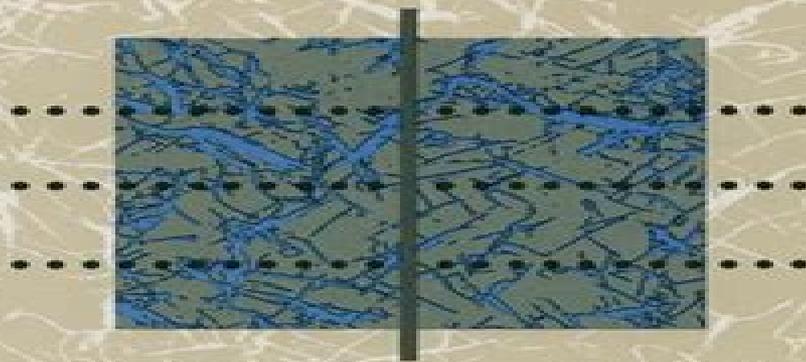


The Color-Blind Constitution



Andrew Kull

The Color Blind Constitution

Mark Golub



The Color Blind Constitution:

The Color-Blind Constitution Andrew Kull, 2009-07 From 1840 to 1960 the profoundest claim of Americans who fought the institution of segregation was that the government had no business sorting citizens by the color of their skin During these years the moral and political attractiveness of the antidiscrimination principle made it the ultimate legal objective of the American civil rights movement Yet in the contemporary debate over the politics and constitutional law of race the vital theme of antidiscrimination has been largely suppressed Thus a strong line of argument laying down one theoretical basis for the constitutional protection of civil rights has been lost Andrew Kull provides us with the previously unwritten history of the color blind idea From the arguments of Wendell Phillips and the Garrisonian abolitionists through the framing of the Fourteenth Amendment and Justice Harlan's famous dissent in Plessy civil rights advocates have consistently attempted to locate the antidiscrimination principle in the Constitution The real alternative embraced by the Supreme Court in 1896 was a constitutional guarantee of reasonable classification The government it said had the power to classify persons by race so long as it acted reasonably the judiciary would decide what was reasonable In our own time in Brown v Board of Education and the decisions that followed the Court nearly avowed the rule of color blindness that civil rights lawyers continued to assert instead it veered off for political and tactical reasons deciding racial cases without stating constitutional principle The impoverishment of the antidiscrimination theme in the Court's decision prefigured the affirmative action shift in the civil rights agenda The social upheaval of the 1960s put the color blind Constitution out of reach for a quartercentury or more but for the hard choices still to be made in racial policy the colorblind tradition of civil rights retains both historical and practical significance

The Color-blind Constitution Andrew Kull, 1989

The Color-Blind Constitution Andrew Kull, 1992 Kull provides us with the previously unwritten history of the color blind liberal ideal that the government take no account of the race of its citizens For 125 years from the crusades of the Garrisonian abolitionists to the civil rights legislation of the 1960s this idea was the constitutional focus of the struggle for racial equality in America

Brown V. Board of Education at Fifty Clarke Rountree, 2004-01-01 The story of Brown v Board of Education is a half century old now and has been retold many times by historians legal scholars sociologists and others This collection of persuasive scholarly essays examines for the first time the role rhetorical theory played in the development of educational segregation Contributors consider the NAACP's development of a series of graduate school cases to challenge Plessy analyze the Brown decision itself assess the state response to Brown and critique the two Supreme Court decisions implementing the Brown decision By illustrating how rhetorical strategies created sustained challenged and ultimately reversed educational segregation in the United States this work demonstrates the real value of the rhetorical perspective and provides encouragement to those who wish to help further develop this emerging field of judicial rhetoric

Critical Race Theory Kimberlé Crenshaw, Neil Gotanda, Gary Peller, Kendall Thomas, 1995 In the past few years a new generation of progressive intellectuals has dramatically transformed

how law race and racial power are understood and discussed in America Questioning the old assumptions of both liberals and conservatives with respect to the goals and the means of traditional civil rights reform critical race theorists have presented new paradigms for understanding racial injustice and new ways of seeing the links between race gender sexual orientation and class This reader edited by the principal founders and leading theoreticians of the critical race theory movement gathers together for the first time the movement s most import essays Back cover

Official Reports of the Supreme Court
United States. Supreme Court,2007 Is Racial Equality Unconstitutional? Mark Golub,2018-02-02 For some the idea of a color blind constitution signals a commonsense ideal of equality and a new post racial American era For others it supplies a narrow constitutional vision which serves to disqualify many of the tools needed to combat persistent racial inequality in the United States Rather than taking a position either for or against color blindness Mark Golub takes issue with the blindness consciousness dichotomy itself This book demonstrates how color blind constitutionalism conceals its own race conscious political commitments in defense of existing racial hierarchy and renders the pursuit of racial justice as a constitutionally impermissible goal Making Liberalism New Ian Afflerbach,2021-11-02 This book maps the rise of a modern liberal culture in the United States from the 1930s to the 1960s It shows how modern fiction writers responded to central concerns in liberal political thought such as corporate ownership reproductive rights colorblind law and presidential character

Public School Desegregation and the Color-blind Constitution Andreas Auer,1973 **Original Sin** Samuel A. Marcossou,2002-06-17 Originalism is the practice of reviewing constitutional cases by seeking to discern the framers and ratifiers intent Original Sin argues that the jurisprudence of original intent represented on the current Supreme Court by Justices Antonin Scalia and Clarence Thomas has failed on its own terms Attempts to determine the framers intent have not brought greater determinacy and legitimacy to the process of constitutional interpretation Instead the method has been marked by the very flaws including self interested reasoning and the manipulation of doctrine that originalists argue marred the jurisprudence of the judicial activists of the Warren Court Original Sin brings a rigorous review of the performance of the new originalists to the debate applying their methodology to real cases Marcossou focuses on the judicial decisions of Clarence Thomas an avowed originalist who nevertheless advocates color blind readings of the Constitution which are at odds with the framers ideas concerning anti miscegenation and other laws After critiquing what he sees as a troubling use of originalism and explaining why it has failed to provide a consistent basis for constitutional decision making the author goes on to offer an alternative approach one that lends greater legitimacy to the Court s interpretations of the Constitution

The Enigma of Clarence Thomas Corey Robin,2019-09-24 The Enigma of Clarence Thomas is a groundbreaking revisionist take on the Supreme Court justice everyone knows about but no one knows One of the marvels of Robin s razor sharp book is how carefully he marshals his evidence It isn t every day that reading about ideas can be both so gratifying and unsettling The New York Times Most people can tell you two things about Clarence Thomas Anita Hill accused him of sexual

harassment and he almost never speaks from the bench Here are some things they don't know Thomas is a black nationalist In college he memorized the speeches of Malcolm X He believes white people are incurably racist In the first examination of its kind Corey Robin one of the foremost analysts of the right *The Reactionary Mind* delves deeply into both Thomas's biography and his jurisprudence masterfully reading his Supreme Court opinions against the backdrop of his autobiographical and political writings and speeches The hidden source of Thomas's conservative views Robin shows is a profound skepticism that racism can be overcome Thomas is convinced that any government action on behalf of African Americans will be tainted by racism the most African Americans can hope for is that white people will get out of their way There's a reason Robin concludes why liberals often complain that Thomas doesn't speak but seldom pay attention when he does Were they to listen they'd hear a racial pessimism that often sounds similar to their own Cutting across the ideological spectrum this unacknowledged consensus about the impossibility of progress is key to understanding today's political stalemate

Genetics in Relation to Agriculture Ernest Brown Babcock, Roy Elwood Clausen, 1918 *Fundamentals Plant breeding Animal breeding*

Race and Redistricting Tinsley E. Yarbrough, 2002 Through much of the 1990s a newly hatched snake wreaked political havoc in the South When North Carolina gained a seat in Congress following the 1990 census it sought to rectify a long-standing failure to represent African American voters by creating under federal pressure two majority-minority voting districts One of these snakes along Interstate 85 for nearly two hundred miles not much wider than the road itself in some places and was ridiculed by many as one of the least compact legislative districts ever proposed From 1993 to 2001 three intertwined cases went before the Supreme Court that decided how far a state could go in establishing voting districts along racial lines Noted Supreme Court biographer Tinsley Yarbrough examines these closely linked landmark cases to show how the Court addressed the constitutionality of redistricting within the volatile contexts of civil rights and partisan politics A suit was first filed by Duke University law professor Robinson Everett a liberal who loathed discrimination but considered racially motivated redistricting a clear violation of the Fourteenth Amendment's equal protection clause Yarbrough tells how Everett enlisted associates as plaintiffs and went on to win two Supreme Court victories in *Shaw v Reno* 1993 and *Shaw v Hunt* 1996 both by 5-4 decisions Following the creation of another flawed redistricting plan he rounded up a new set of plaintiffs to take the battle back to the Supreme Court But this time in *Easley v Cromartie* on the swing vote of Justice Sandra Day O'Connor the 5-4 vote went against him Yarbrough shows the significant impact these cases have had on election law and the fascinating interplay of law politics and human conflict that the dispute generated Drawing heavily on court records and on interviews with attorneys on both sides of the litigation he relates a complex and intriguing tale about these protracted struggles His cogent and balanced analysis considers whether the state legislature was wrong in using race as a measure for establishing the new district or whether it was simply engaging in the time-honored practice of gerrymandering to ensure political balance *Race and Redistricting* spotlights efforts to racially

engineer voting districts in an effort to achieve fair representation By examining one state's efforts to confront such dilemmas it helps readers better understand future disputes over race and politics as well as the ongoing debates over our color blind constitution

Antonin Scalia's Jurisprudence Ralph A. Rossum, 2006 This book is the first comprehensive reasoned and sympathetic analysis of how Scalia has decided cases during his entire nineteen year Supreme Court tenure Ralph Rossum focuses on Scalia's more than 600 Supreme Court opinions and dissents carefully wrought passionately argued and filled with well turned phrases which portray him as an eloquent defender of an original meaning jurisprudence He also includes analyses of Scalia's Court of Appeals opinions for the D C Circuit his major law review articles as a law professor and judge and his provocative book *A Matter of Interpretation* Jacket

Seeking Justices Michael Comiskey, 2004 In the long shadows cast by the Robert Bork and Clarence Thomas nominations Supreme Court confirmations remain highly contentious and controversial This is due in part to the Senate's increasing reliance upon a much lengthier much more public and occasionally raucous confirmation process in an effort to curb the potential excesses of executive power created by presidents seeking greater control over the Court's ideological composition Michael Comiskey offers the most comprehensive systematic and optimistic analysis of that process to date Arguing that the process works well and therefore should not be significantly altered Comiskey convincingly counters those critics who view highly contentious confirmation proceedings as the norm Senators have every right and a real obligation he contends to scrutinize the nominees constitutional philosophies He further argues that the media coverage of the Senate's deliberations has worked to improve the level of such scrutiny and that recent presidents have neither exerted excessive influence on the appointment process nor created a politically extreme Court He also examines the ongoing concern over presidential efforts to pack the court concluding that stacking the ideological deck is unlikely As an exception to the rule Comiskey analyzes in depth the Thomas confirmation to explain why it was an aberration offering the most detailed account yet of Thomas's pre judicial professional and political activities He argues that the Senate Judiciary Committee abdicated its responsibilities out of deference to Thomas's race Another of the book's unique features is Comiskey's reassessment of the reputations of twentieth century Supreme Court justices Based on a survey of nearly 300 scholars in constitutional law and politics it shows that the modern confirmation process continues to fill Court vacancies with jurists as capable as those of earlier eras We have now seen the longest period without a turnover on the Court since the early nineteenth century making inevitable the appointment of several new justices following the 2004 presidential election Thus the timing of the publication of *Seeking Justices* could not be more propitious

Rethinking Constitutional Law Earl M. Maltz, 1994 Maltz reformulates the justification for originalist review and refines originalist theory itself he argues that a pure originalist approach mandates excessive judicial intervention under the Constitution and he shows that most nonoriginalist theorists have failed to provide a sufficient functional justification for nonoriginalist intervention

Dred Scott Larry Kenneth Alexander, 2023-09-09 In July 2023 the Ida B Wells Center on American

Exceptionalism and Restorative Justice launched a Review of the U S Constitution to offer an evidence based and non partisan analysis of the question of whether the constitution is a color blind or a color conscious document To address the bold scope of this project we have complemented our own in depth research with the U S Supreme Court s Dred Scott decision the law of the land While this paper responds to the pressing constitutional questions of the day they all also seek to construct long term solutions that will inform political decision making and public debate

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