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### Book Review: Critical Race Judgments: Rewritten U.S. Court Opinions on Race and the Law

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animals are equal, but some animals are more equal than others,” is “not what the Founders had in mind” for the citizenry of the United States (p.242).

¶18 As of the date of this review, the issue of whether an incumbent President may be indicted for crimes committed prior to or during time in office remains an academic question, as the question has not arrived formally at the U.S. Supreme Court. Brown, however, has convinced this reader to find hope in the rule of law in the future.

¶19 *Prosecution of the President of the United States* and its commitment to the rigor of scholarship will find its place in academic libraries for readers interested in the study of law, political science, or U.S. government history. Scholars will appreciate that each chapter of the book contains a section for endnotes and a separate, chapter-level bibliography, facilitating future research. The book also includes an index that lists sources and authors cited within the pages of the book. This book is recommended for academic law libraries.

Capers, Bennett, Devon W. Carbado, R.A. Lenhardt, and Angela Onwuachi-Willig, eds. *Critical Race Judgments: Rewritten U.S. Court Opinions on Race and the Law*. Cambridge: Cambridge University Press, 2022. 694p. \$120.00.

*Reviewed by Julia M. Pluta\**

¶20 For the last several years, the phrase “critical race theory” (CRT) has sometimes been used pejoratively to characterize CRT’s principles as based in communism. The legal theory, in fact, stems from critical theory, an approach to examining social problems by looking at the social and cultural factors that cause them. CRT is a method of legal and sociological analysis which uses the tools of critical theory to examine and criticize racial bias in laws and institutions. The disingenuous mischaracterization of the term led the CRT scholars featured in this volume to rewrite 38 opinions of U.S. courts to illustrate how critical race theory concepts forge more equitable outcomes.

¶21 *Critical Race Judgments* opens with a bang: a dissent to *Brown v. Board of Education* that thoroughly explains why society was racially segregated in the 1950s, criticizing the majority for failing to address any of the causes of racial segregation, and cautioning that the relief granted would not be meaningful so long as those conditions exist. The collection does not let up, addressing cases involving criminal procedure, reproductive rights, employment, immigration, and LGBTQ rights.

¶22 Often the rewrites yield reversals of the original decision. For example, the rewrite of *Buck v. Bell* examines the discriminatory way Virginia’s sterilization law was applied and reaches the opposite result from the original decision. Sometimes, however, the opinion reaches the same results for different reasons: the *Slaughter-House Cases* rewrite reaches the same outcome without gutting the Fourteenth Amendment’s broad ideals in the process.

¶23 *Critical Race Judgments* is divided into five broad sections that deal with various areas of law and society, with six to eight opinions in each. The book takes a

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show-don't-tell approach to its subject matter, and while it is possible to pick up on what critical race theory is from reading the rewritten opinions, it requires the reader to interrogate the material, compare it to the originals, and fully reflect on what is different from the original decision and why. The opinions are all well written (often more so than the opinions they rewrite), readable, and supported with sources available at the time of the original opinion. The original opinions are not reprinted in the text, so readers unfamiliar with them may wish to have copies at the ready.

¶24 It is impossible to discuss *Critical Race Judgments* without referring to the *Feminist Judgments* series the editors reference in the first line of the introduction. Inspired by a U.K. original, the U.S. *Feminist Judgments* series, also published by Cambridge University Press, features 11 volumes in a similar structure to *Critical Race Judgments*, with each volume containing opinions on various areas of law rewritten from a feminist perspective. The key difference in the *Feminist Judgments* series is that each rewritten opinion is paired with an explanatory essay by one of the editors that summarizes the original opinion and explains the feminist principles being applied in the rewritten opinion. By contrast, only a handful of rewritten opinions in *Critical Race Judgments* include such supporting material, and only if the author chose to include it. Many of the rewritten opinions in *Critical Race Judgments* would benefit from explanatory information, which often means setting aside a dense tome to do outside reading for context. The omission is, however, understandable. The book already has nearly 700 pages of rewritten opinions; adding 200 more pages of explanatory text would have ballooned it beyond the reasonable scope of a single volume. If the book were to inspire a series like *Feminist Judgments*, it would be advisable for future books, which can be less packed with cases, to include some sort of guidance for the reader, such as additional explanatory essays.

¶25 *Critical Race Judgments* is an excellent addition to any academic law library or academic library collection and is affordably priced. It is one of the few demonstrations of an antiracist approach to law. There really is no book quite like it: a work of speculative legal writing that imagines a society fully committed to equality and justice, demonstrating how a different perspective on our existing legal framework can show a pathway to that end.

Chemerinsky, Erwin. *Worse Than Nothing: The Dangerous Fallacy of Originalism*. New Haven, Conn.: Yale University Press, 2022. 264 p. \$28.00.

*Reviewed by Edna L. Lewis\**

¶26 Erwin Chemerinsky's *Worse Than Nothing: The Dangerous Fallacy of Originalism* attacks the use of originalism in the Supreme Court's constitutional interpretation. Robert Bork first expressed the concept of originalism in the 1970s as a reaction to the Warren and Burger Courts' perceived abuse of constitutional interpretation to advance a liberal agenda. Now originalism is an established theory of constitutional

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