
Contents

Preface *vi*

I Adversarial Legalism: Contours, Consequences, Causes

1. The Concept of Adversarial Legalism 3
2. The Two Faces of Adversarial Legalism 18
3. The Political Construction of Adversarial Legalism 34

II Criminal Justice

4. Adversarial Legalism and American Criminal Justice 61
5. Deciding Criminal Cases 82

III Civil Justice

6. Adversarial Legalism and Civil Justice 99
7. The Tort Law System 126

IV Public Law: Social Justice and Regulation

8. Adversarial Legalism and the Welfare State 159
9. Adversarial Legalism and Regulatory Style 181
10. Economic Development, Environmental Protection,
and Adversarial Legalism 207

Conclusion: Can the United States Tame Adversarial
Legalism? 229

Notes 255

References 285

Index 331