

Michael Underwood
**SMOOTH
JUSTICE**



Smooth Justice

Michael Underwood



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Justice Stephen Field Paul Kens, 1997 Outspoken and controversial Stephen Field served on the Supreme Court from his appointment by Lincoln in 1863 through the closing years of the century No justice had ever served longer on the Court and few were as determined to use the Court to lead the nation into a new and exciting era Paul Kens shows how Field ascended to such prominence what influenced his legal thought and court opinions and why both are still very relevant today One of the famous gold rush forty niners Field was a founder of Marysville California a state legislator and state supreme court justice His decisions from the state bench and later from the federal circuit court often placed him in the middle of tense

conflicts over the distribution of the land and mineral wealth of the new state Kens illuminates how Field s experiences in early California influenced his jurisprudence and produced a theory of liberty that reflected both the ideals of his Jacksonian youth and the teachings of laissez faire economics During the time that Field served on the U S Supreme Court the nation went through the Civil War and Reconstruction and moved from an agrarian to an industrial economy in which big business dominated Fear of concentrated wealth caused many reformers of the time to look to government as an ally in the preservation of their liberty In the volatile debates over government regulation of business Field became a leading advocate of substantive due process and liberty of contract legal doctrines that enabled the Court to veto state economic legislation and heavily influenced constitutional law well into the twentieth century In the effort to curb what he viewed as the excessive power of government Field tended to side with business and frequently came into conflict with reformers of his era Gracefully written and filled with sharp insights Kens study sheds new light on Field s role in helping the Court define the nature of liberty and determine the extent of constitutional protection of property By focusing on the political economic and social struggles of his time it explains Field s jurisprudence in terms of conflicting views of liberty and individualism It firmly establishes Field as a persuasive spokesman for one side of that conflict and as a prototype for the modern activist judge while providing an important new view of capitalist expansion and social change in Gilded Age America

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Table of Contents Smooth Justice

1. Understanding the eBook Smooth Justice
 - The Rise of Digital Reading Smooth Justice
 - Advantages of eBooks Over Traditional Books
2. Identifying Smooth Justice
 - Exploring Different Genres
 - Considering Fiction vs. Non-Fiction
 - Determining Your Reading Goals
3. Choosing the Right eBook Platform
 - Popular eBook Platforms
 - Features to Look for in an Smooth Justice
 - User-Friendly Interface
4. Exploring eBook Recommendations from Smooth Justice
 - Personalized Recommendations
 - Smooth Justice User Reviews and Ratings
 - Smooth Justice and Bestseller Lists
5. Accessing Smooth Justice Free and Paid eBooks
 - Smooth Justice Public Domain eBooks
 - Smooth Justice eBook Subscription Services
 - Smooth Justice Budget-Friendly Options
6. Navigating Smooth Justice eBook Formats

- ePub, PDF, MOBI, and More
- Smooth Justice Compatibility with Devices
- Smooth Justice Enhanced eBook Features
- 7. Enhancing Your Reading Experience
 - Adjustable Fonts and Text Sizes of Smooth Justice
 - Highlighting and Note-Taking Smooth Justice
 - Interactive Elements Smooth Justice
- 8. Staying Engaged with Smooth Justice
 - Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - Following Authors and Publishers Smooth Justice
- 9. Balancing eBooks and Physical Books Smooth Justice
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection Smooth Justice
- 10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
- 11. Cultivating a Reading Routine Smooth Justice
 - Setting Reading Goals Smooth Justice
 - Carving Out Dedicated Reading Time
- 12. Sourcing Reliable Information of Smooth Justice
 - Fact-Checking eBook Content of Smooth Justice
 - Distinguishing Credible Sources
- 13. Promoting Lifelong Learning
 - Utilizing eBooks for Skill Development
 - Exploring Educational eBooks
- 14. Embracing eBook Trends
 - Integration of Multimedia Elements
 - Interactive and Gamified eBooks

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