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EDITED BY JAMES M. HENRICHSON

WITH AN INTRODUCTION BY JAMES M. HENRICHSON

Constitutional Construction Divided Powers And Constitutional Meaning

**Dennis J. Hutchinson, David A.
Strauss, Geoffrey R. Stone**



Constitutional Construction Divided Powers And Constitutional Meaning:

Constitutional Construction Keith E. Whittington, 2001 *Constitutional Argument and Institutional Structure in the United States* Nicholas Papaspyrou, 2018-03-22 US constitutional jurisprudence often conflates two distinct enquiries how to interpret the Constitution and how to allocate interpretive authority This book explains the distinct role of judgements about interpretive authority in constitutional practice It argues that these judgements do not determine what qualifies as good constitutional argument and cannot substitute for it Rather they specify the division of labour between the political branches and the judiciary in forming applicable constitutional determinations This explanation of the structure of constitutional reasoning sets the stage for the development of a normative theory about each enquiry The book advances a theory of substantive constitutional argument It argues that constitutional interpretation is a special kind of practical reasoning aiming to construct and specify morally sound accounts of the Constitution and surrounding constitutional practice Yet this task is entrusted to a scheme of institutions as agents of free and equal citizens The standard of review is an interlocking component of that scheme regulating the judicial assignment As such it should aim to facilitate best performance of the overall interpretive task so that the judicial process settles on appropriate constitutional determinations grounded on morally sound reasons that reach all citizens and uphold the fundamental commitments to freedom and equal citizenship

Constitutional Interpretation Sotirios A. Barber, James E. Fleming, 2007-06-07 The presuppositions of constitutional interpretation The principal questions of constitutional interpretation The principal features of the American constitutional order the positive constitutionalism of The federalist Approaches to constitutional interpretation Textualism and consensualism Narrow originalism intentionalism Broad originalism Structuralism Doctrinalism and minimalism The philosophic approach Pragmatism Epilogue a fusion of approaches to constitutional interpretation The Challenge of Originalism Grant Huscroft, Bradley W. Miller, 2011-09-12 Originalism is a force to be reckoned with in constitutional interpretation At one time a monolithic theory of constitutional interpretation contemporary originalism has developed into a sophisticated family of theories about how to interpret and reason with a constitution Contemporary originalists harness the resources of linguistic moral and political philosophy to propose methodologies for the interpretation of constitutional texts and provide reasons for fidelity to those texts The essays in this volume which includes contributions from the flag bearers of several competing schools of constitutional interpretation provides an introduction to the development of originalist thought showcases the great range of contemporary originalist constitutional scholarship and situates competing schools of thought in dialogue with each other They also make new contributions to the methodological and normative disputes between originalists and non originalists and among originalists themselves **The Negotiable Constitution** Grégoire C. N. Webber, 2009-11-26 Gr goire C N Webber explores how open ended constitutional rights leave a constitution open to re negotiation by the political process **Judicial Nominations, Filibusters, and the Constitution** United States. Congress.

Senate. Committee on the Judiciary. Subcommittee on the Constitution, Civil Rights, and Property Rights, 2003 Targeting Americans Jefferson Powell, 2016 The constitutional history of the war on terror How to think constitutionally The war powers of the U S government The killing of Anwar al Awlaki a constitutional analysis Targeted killing and the future three speculations *The Supreme Court Review, 2014* Dennis J. Hutchinson, David A. Strauss, Geoffrey R. Stone, 2015-07-22 For more than fifty years The Supreme Court Review has been lauded for providing authoritative discussion of the Court's most significant decisions An in depth annual critique of the Supreme Court and its work The Supreme Court Review keeps at the forefront of the reforms and interpretations of American law Recent volumes have considered such issues as post 9 11 security the 2000 presidential election cross burning federalism and state sovereignty failed Supreme Court nominations the battles concerning same sex marriage and numerous First and Fourth Amendment cases *Jurisprudence in the Mirror* Luka Burazin, 2024-08-28 There is something quite puzzling about the global conversation on jurisprudence On the one hand jurisprudence is supposed to deal with abstract questions concerning the nature structure and distinctive features of the law These questions are not tightly associated with or dependent on the particular legal practices in one jurisdiction or another But on the other hand it seems that jurisprudents are tacitly affected by their background institutional context there is an evident divide between theorizing about the law in the civil law world and in the common law world *Jurisprudence in the Mirror The Common Law World Meets the Civil Law World* systematically presents the major achievements of contemporary civil law jurisprudence to the common law world and bridges the gap in analytic jurisprudence as it is currently practiced in the two traditions The volume seeks to bring different voices to the table and overcome the cultural and linguistic divides that have created barriers in philosophical exchanges The book's structure is dialogical it includes twelve essays written by prominent and influential jurisprudents from the civil law world each followed by a response by a jurisprudent from the common law world This approach highlights what the two worlds share where they part ways and why The varied contributions reveal how their respective legal traditions shape fundamental legal concepts and jurisprudential debates and will be invaluable to readers from both the civil and common law worlds **How Failed Attempts to Amend the Constitution Mobilize Political Change** Roger C. Hartley, 2021-04-30 Since the Constitution's ratification members of Congress following Article V have proposed approximately twelve thousand amendments and states have filed several hundred petitions with Congress for the convening of a constitutional convention Only twenty seven amendments have been approved in 225 years Why do members of Congress continue to introduce amendments at a pace of almost two hundred a year This book is a demonstration of how social reformers and politicians have used the amendment process to achieve favorable political results even as their proposed amendments have failed to be adopted For example the ERA failed in the sense that it was never ratified but the mobilization to ratify the ERA helped build the feminist movement and also sparked a countermobilization Similarly the Supreme Court's ban on compulsory school prayer led to a barrage of proposed

amendments to reverse the Court. They failed to achieve the requisite two-thirds support from Congress but nevertheless had an impact on the political landscape. The definition of the relationship between Congress and the President in the conduct of foreign policy can also be traced directly to failed efforts to amend the Constitution during the Cold War. Roger Hartley examines familiar examples like the ERA, balanced budget amendment proposals, and pro-life attempts to overturn *Roe v. Wade*, but also takes the reader on a three-century tour of lesser-known amendments. He explains how often the mere threat of calling a constitutional convention at which anything could happen effected political change.

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