

Constitutional Structure and Purposes

Critical Commentary

Michael Conant

Constitutional Structure And Purposes Critical Commentary

Tom Ginsburg, Rosalind Dixon



Constitutional Structure And Purposes Critical Commentary:

The Constitution and Economic Regulation Michael Conant, 2017-10-19 This study uses basic economic analysis as a technique to comment critically on the original meaning and the interpretation of those clauses of the Constitution that have particular bearing on the economy Many new conclusions are markedly different from those of the Supreme Court and earlier commentators Conant's view is that the commerce clause and the equal protection clause if they had been construed consistently with their comprehensive original meanings would have given much greater federal protection against state laws that impair free markets Economic policy for the nation was vested in Congress To the extent that special interests could buy congressional favor for their anticompetitive activities free markets were impaired within constraints as interpreted by the court These decisions have been criticized for their failure to incorporate the antimonopoly tradition in the Ninth Amendment and their failure to recognize equal protection of laws incorporated into the Fifth Amendment Conant holds that statutory controls of the economy are justifiable in economic theory if they are designed to remedy market failures and thereby increase efficiency If statutes are passed to interfere with markets and create market inefficiencies for the benefit of special interest groups they should be condemned under the standards of normative microeconomics There are four main classes of market failure monopoly externalities public goods and informational asymmetry This masterful analysis examines all four reasons for market failure in depth Litigation costs are analogous to transaction costs If legal principles and rules are clearly and precisely defined by the Supreme Court when they are first appealed litigation and its costs should be minimized Conant claims that if legal principles or rules are uncertain because they lack definable standards the number of legal actions filed and litigation costs will be much greater This promotes additional litigation challenging the many statutes enacted to remedy asserted market failures in an expanding industrial economy This work brilliantly addresses the danger to the economy in court rulings seeking to legislate standards of reasonableness

Constitutional Interpretation Jeffrey M. Shaman, 2000-11-30 This study analyzes the process of constitutional interpretation that is the methodology by which the Supreme Court goes about interpreting the Constitution and offers a comprehensive view of constitutional law through the lens of history political science and jurisprudence Shaman examines the practice of creating meaning for the Constitution the dichotomy of legal formalism and realism the levels of judicial scrutiny the perception of reality and the puzzle of legislative motive While the book traces the historical development of constitutional law its main focus is on modern jurisprudence including analyses of the major themes of constitutional interpretation developed by the Warren Burger and Rehnquist Courts Shaman details the Warren Court's move to a more realistic jurisprudence and its development of a multi level system of judicial review that has become increasingly more complex under the Burger and Rehnquist Courts He critiques the Supreme Court's reversion in recent years to an old fashioned formalistic jurisprudence and the growing tendency of the Court to look to the past rather than to future to interpret the Constitution The book also includes discussion of recent major

doctrinal developments such as constitutional theory underlying Supreme Court decisions on gender discrimination discrimination on the basis of sexual preference the right to die abortion and freedom of speech **Not Quite Supreme** Dennis Baker, 2010 A critique of the Supreme Court of Canada's power and a defence of Parliament's role in constitutional interpretation *Foreign Policy Objectives in European Constitutional Law* Joris Larik, 2016 Presenting the first comprehensive account of foreign policy objectives as a growing part of European constitutional law this book examines the nature functions and potential of these objectives by approaching EU external relations law through both comparative constitutional analysis and international relations theory *Developing a Constitution for Europe* Erik Oddvar Eriksen, John Erik Fossum, Agustín Menéndez, 2004-08-02 The European Union is currently in the midst of a comprehensive process of reform and the aim of this book is to address the challenge of forging a legitimate Constitution for the EU These authors clarify the constitutional status of the EU to take stock of the European Charter of Fundamental Rights and Convention of the Future of Europe as vehicles to foster and create a European constitution *The Oxford Handbook of Comparative Constitutional Law* Michel Rosenfeld, András Sajó, 2012-05-17 A comprehensive reference resource on comparative constitutional law this title examines the history and development of the discipline its core concepts institutions rights and emerging trends *The Constitution of Society* Anthony Giddens, 1986-03-25 It is likely that this book will be regarded as the most important piece of grand sociological theory in English of the past decade Mark Poster University of California This book will take its place alongside such major statements of sociological theory as those of Parsons and Habermas Anyone interested in the state of the social sciences today the character of social theory or the relevance of philosophy to social theory will now find it essential to grapple with Giddens's bold and incisive book Richard Bernstein Haverford College USA Anthony Giddens's new book is the fullest presentation yet of his theoretical views it has the lean sparse utterly serious craftsmanlike qualities we have learned to expect from its author and which make it a real pleasure to read Dennis Wrong Times Higher Education Supplement *Military Law Review*, 1989 **Traversing the Divide** Kim Rubenstein, 2021-03-05 This collection honours the work of Deborah Cass 15 February 1960 4 June 2013 a brilliant Australian constitutional and international lawyer Deborah studied at the University of Melbourne and Harvard Law School and taught at Melbourne Law School The Australian National University and the London School of Economics A member of The Australian National University's Centre for International and Public Law from 1993 to 2000 Deborah's work offered illuminating new perspectives in a range of fields from the right to self determination critical international legal theory and feminist legal theory to the international trade law system The title of this edited collection draws on one of her articles Traversing the Divide International Law and Australian Constitutional Law 1998 20 Adelaide Law Review 73 This book evolves from a symposium held to draw together academics from around the globe to reflect on Deborah's extensive scholarship and contributions to public law and international law and to examine how her work is of value to current domestic and

international law issues The pieces selected for this volume both remind us of Deborah s outstanding academic career and provide important insights on current public law and international law pressing issues While devoting fine attention to the stuff of everyday life Deborah Cass was also a brilliant scholar Although the deep sense of loss and sadness at Deborah s death remains it is wonderful to have her writings as a continuing source of inspiration and consolation In them we continue to hear Deborah s firm clear voice her appreciation of language her seriousness her curiosity her sensitivity and her wry humour Professor Hilary Charlesworth

Comparative Constitutional Law Tom Ginsburg, Rosalind Dixon, 2011-01-01

This landmark volume of specially commissioned original contributions by top international scholars organizes the issues and controversies of the rich and rapidly maturing field of comparative constitutional law Divided into sections on constitutional design and redesign identity structure individual rights and state duties courts and constitutional interpretation this comprehensive volume covers over 100 countries as well as a range of approaches to the boundaries of constitutional law While some chapters reference the text of legal instruments expressly labeled constitutional others focus on the idea of entrenchment or take a more functional approach Challenging the current boundaries of the field the contributors offer diverse perspectives cultural historical and institutional as well as suggestions for future research A unique and enlightening volume Comparative Constitutional Law is an essential resource for students and scholars of the subject

Public Law John Stanton, Craig Prescott, 2020 With its fresh modern approach and unique combination of practical application and theoretically critical discussion Public Law guides students to a clear understanding of not only the fundamental principles of the subject but how they are relevant in everyday life

Current Publications in Legal and Related Fields , 2000

Selected Theories of Constitutional Interpretation , **Public Law and Politics** Emilio A. Christodoulidis, Stephen Tierney, 2008-01-01 In a critical engagement with the function of public law and constitutionalism in its political dimensions this volume brings together the reflections of three leading constitutionalists Martin Loughlin James Tully and Frank Michelman Comprising three critical commentaries on each it addresses the multiple ways in which public law is implicated in the logic of rule

American Constitutional Law Bernard Schwartz, 2013-09-19 Originally published in 1955 this book presents the workings of American constitutional law for a non American audience

American Constitutional Law Louis Fisher, 2009

Socialism and the Law Association for Legal and Social Philosophy (Great Britain). Conference, 1992 Aus dem Inhalt Raymond Plant The Austin Lecture Socialism End States and the Law Chris Bertram Would a socialist society be able to dispense with law Andrew Vincent Socialism Law and the State Tradition Elizabeth Kingdom Socialism State and Law Response to Andrew Vincent David Feldman The Left Judicial Review and Theories of the Constitution Hugh Collins Social Market and the Law of Contract Michael Luntley The Long Aim of the Law Response to Hugh Collins Christine Sypnowich Rights and Community Feminism and Social Justice Roger Brownsword A Synthesis of Rights and Community in a different register Response to Christine Sypnowich Bibliography

The Supreme

Court Review, 2022 David A. Strauss, Geoffrey R. Stone, Justin Driver, William Baude, 2023-09-05 An annual peer reviewed law journal covering the legal implications of decisions by the Supreme Court of the United States Since it first appeared in 1960 the Supreme Court Review has won acclaim for providing a sustained and authoritative survey of the implications of the Court's most significant decisions SCR is an in depth annual critique of the Supreme Court and its work analyzing the origins reforms and modern interpretations of American law SCR is written by and for legal academics judges political scientists journalists historians economists policy planners and sociologists

Reader's Guide to American History Peter J. Parish, 2013-06-17 There are so many books on so many aspects of the history of the United States offering such a wide variety of interpretations that students teachers scholars and librarians often need help and advice on how to find what they want The Reader's Guide to American History is designed to meet that need by adopting a new and constructive approach to the appreciation of this rich historiography Each of the 600 entries on topics in political social and economic history describes and evaluates some 6 to 12 books on the topic providing guidance to the reader on everything from broad surveys and interpretive works to specialized monographs The entries are devoted to events and individuals as well as broader themes and are written by a team of well over 200 contributors all scholars of American history

Law, Morality and Judicial Reasoning Thomas Bustamante, Saulo de Matos, André L. S. Coelho, 2024-08-28 This book provides a critical outlook on and an inquiry into the practical implications of the works of Professor W J Waluchow one of the most important jurisprudence scholars of the early twenty first century while also reflecting on the interconnections between his legal theory and his theory of constitutional interpretation It also features an interview with Waluchow in which he responds to some of the chapters and shares a first person perspective on his main philosophical ideas how they emerged and how they can be further developed and applied The book makes a valuable contribution to contemporary legal philosophy by asking and providing different answers from prominent legal philosophers and newer scholars in the field to questions such as How does Waluchow's jurisprudence relate to his theories of legal reasoning and constitutional interpretation On what terms should we understand inclusive legal positivism Can inclusive legal positivism be reconciled with an interpretivist theory of adjudication How does it compare with Raz's model of legal authority Can Waluchow's notion of community constitutional morality be applied to contexts such as international law pluralist legal communities and indigenous laws and Is Waluchow's methodology equipped to provide interpretive directives in unstable and extremely unequal legal systems The chapters all written by experts on jurisprudence including some of the scholars who helped develop the tradition known as inclusive legal positivism offer a unique analysis of Waluchow's most complex and intriguing theses providing not only a valuable exegetical analysis of his work but also a range of answers to the challenge of interpreting legal and constitutional values as well as practical resolutions to persisting controversies in the philosophy of law

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