



REVOLUTION *by* JUDICIARY

The Structure of American
Constitutional Law

JED RUBENFELD

Revolution By Judiciary The Structure Of American Constitutional La

Bart M.J. Szewczyk



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Revolution by Judiciary Jed Rubenfeld, 2005 Constitutional law's central narrative in the 20th century has been one of radical reinterpretation *Brown v Board of Education* *Roe v Wade* *Bush v Gore* What justifies this phenomenon How does it work doctrinally What structures it or limits it Rubenfeld finds a pattern in constitutional interpretation that answers these questions The Supreme Court A to Z Kenneth Jost, 2012-03-14 The Supreme Court A to Z offers accessible information about the Supreme Court including its history traditions organization dynamics and personalities The entries in The Supreme Court A to Z are arranged alphabetically and are extensively cross referenced to related information This volume also has a detailed index reference materials on Supreme Court nominations a seat chart of the justices the U S Constitution online sources of decisions and a bibliography to help simplify research The fifth edition of The Supreme Court A to Z has been thoroughly updated to incorporate coverage of significant new cases and recent changes on the bench and includes more than 350 alphabetized entries Presented in an engaging reader friendly design this edition includes Biographies of recently appointed Associate Justices Elena Kagan and Sonia Sotomayor plus revised biographies for recently retired Associate Justices David Souter and John Paul Stevens Updated entries on key issues and concepts including abortion campaigns and elections civil rights class action due process freedom of the press reapportionment and redistricting school desegregation and war powers A new entry on media and the Court which highlights the Court's online presence New feature boxes on 2011 decisions Updated seat charts of the justices online sources for finding decisions and a selected bibliography An appendix with historic milestones of the Court The Supreme Court A to Z is part of CQ Press's five volume American Government A to Z series The series is useful to anyone who has an interest in national government and politics *Europe's Second Constitution* Markus W. Gehring, 2020-09-24 European constitutionalisation has met with scepticism this book analyses the steps necessary to move to EU's Second Constitution **The History and Growth of Judicial Review, Volume 1** Steven Gow Calabresi, 2021-04-13 This two volume set examines the origins and growth of judicial review in the key G 20 constitutional democracies which include the United States the United Kingdom France Germany Japan Italy India Canada Australia South Korea Brazil South Africa Indonesia Mexico and the European Union as well as Israel The volumes consider five different theories which help to explain the origins of judicial review and identify which theories apply best in the various countries discussed They consider not only what gives rise to judicial review originally but also what causes of judicial review lead it to become more powerful and prominent over time Volume One discusses the G 20 common law countries and Israel **Building the Constitution** James Fowkes, 2016-12-15 This revisionary perspective on South Africa's celebrated Constitutional Court draws on historical and empirical sources alongside conventional legal analysis to show how support from the African National Congress ANC government and other political actors has underpinned the Court's landmark cases which are often applauded too narrowly as merely judicial achievements Standard accounts see the Court as

overseer of a negotiated constitutional compromise and as the looked to guardian of that constitution against the rising threat of the ANC However in reality South African successes have been built on broader and more admirable constitutional politics to a degree no previous account has described or acknowledged The Court has responded to this context with a substantially consistent but widely misunderstood pattern of deference and intervention Although a work in progress this institutional self understanding represents a powerful effort by an emerging court as one constitutionally serious actor among others to build a constitution

Interpreting Hong Kong's Basic Law: The Struggle for Coherence H. Fu,L. Harris,S. Young,2007-12-25 On July 1 2007 Hong Kong celebrated its tenth anniversary as a special administrative region of China It also marked the first decade of its unique constitutional order in which Hong Kong courts continue to apply and develop the common law but the power of final interpretation of the constitution lies with the Standing Committee of the National People s Congress This book is a collection of chapters by leading constitutional law experts in Hong Kong who examine the interpretive issues and conflicts which have arisen since 1997 Intervention by China in constitutional interpretation has been restrained but each intervention has had significant political and jurisprudential impact The authors give varied assessments of the struggle for interpretive coherence in the coming decade

The Triple Package Amy Chua,Jed Rubenfeld,2014-02-04 That certain groups do much better in America than others as measured by income occupational status test scores and so on is difficult to talk about In large part this is because the topic feels racially charged The irony is that the facts actually debunk racial stereotypes There are black and Hispanic subgroups in the United States far outperforming many white and Asian subgroups Moreover there s a demonstrable arc to group success in immigrant groups it typically dissipates by the third generation puncturing the notion of innate group differences and undermining the whole concept of model minorities Mormons have recently risen to astonishing business success Cubans in Miami climbed from poverty to prosperity in a generation Nigerians earn doctorates at stunningly high rates Indian and Chinese Americans have much higher incomes than other Americans Jews may have the highest of all Why do some groups rise Drawing on groundbreaking original research and startling statistics The Triple Package uncovers the secret to their success A superiority complex insecurity impulse control these are the elements of the Triple Package the rare and potent cultural constellation that drives disproportionate group success The Triple Package is open to anyone America itself was once a Triple Package culture It s been losing that edge for a long time now Even as headlines proclaim the death of upward mobility in America the truth is that the old fashioned American Dream is very much alive but some groups have a cultural edge which enables them to take advantage of opportunity far more than others Americans are taught that everyone is equal that no group is superior to another But remarkably all of America s most successful groups believe even if they don t say so aloud that they re exceptional chosen superior in some way Americans are taught that self esteem feeling good about yourself is the key to a successful life But in all of America s most successful groups people tend to feel insecure inadequate

that they have to prove themselves America today spreads a message of immediate gratification living for the moment But all of America s most successful groups cultivate heightened discipline and impulse control But the Triple Package has a dark underside too Each of its elements carries distinctive pathologies when taken to an extreme they can have truly toxic effects Should people strive for the Triple Package Should America Ultimately the authors conclude that the Triple Package is a ladder that should be climbed and then kicked away drawing on its power but breaking free from its constraints Provocative and profound The Triple Package will transform the way we think about success and achievement *America's Unwritten Constitution* Akhil Reed Amar,2012-09-11 Reading between the lines America s implicit Constitution Heeding the deed America s enacted Constitution Hearing the people America s lived Constitution Confronting modern case law America s warrented Constitution Putting precedent in its place America s doctrial Constitution Honoring the icons America s symbolic Constitution Remembering the ladies America s feminist Constitution Following Washington s lead America s Georgian Constitution Interpreting government practices America s institutional Constitution Joining the party America s partisan Constitution Doing the right thing America s conscientious Constitution Envisioning the future America s unfinished Constitution Afterward Appendix America s written Constitution *In the Balance: Law and Politics on the Roberts Court* Mark Tushnet,2013-09-30 An examination of the initial years of the Roberts Court and the intellectual battle between Roberts and Kagan for leadership When John Roberts was appointed chief justice of the Supreme Court he said he would act as an umpire Instead his Court is reshaping legal precedent through decisions unmistakably though not always predictably determined by politics as much as by law on a Court almost perfectly politically divided Harvard Law School professor and constitutional law expert Mark Tushnet clarifies the lines of conflict and what is at stake on the Supreme Court as it hangs in the balance between its conservatives and its liberals Clear and deeply knowledgeable on both points of law and the Court s key players Tushnet offers a nuanced and surprising examination of the initial years of the Roberts Court Covering the legal philosophies that have informed decisions on major cases such as the Affordable Care Act the political structures behind Court appointments and the face off between John Roberts and Elena Kagan for intellectual dominance of the Court In the Balance is a must read for anyone looking for fresh insight into the Court s impact on the everyday lives of Americans

Constitutional Revolutions Robert Justin Lipkin,2000-05-17 Rethinks constitutional jurisprudence from a postmodern perspective attempting to integrate a Kuhnian approach to intellectual transformations with a Rawlsian pragmatic approach to decision making **Originalism's Promise** Lee J. Strang,2019-08-08 Provides the first natural law justification for an originalist interpretation of the American Constitution Peopling the Constitution John E. Finn,2014-03-24 The U S Constitution begins with the soaring words We the People but we the people have little to do with the document as most of us have come to know it When most people think of the constitution they think of it as a legal instrument the province of judges and lawyers who alone possess the expertise and knowledge necessary to discern its elusive and complex meaning This book

outlines a very different view of the Constitution as a moral and philosophical statement about who we are as a nation This Civic Constitution constitutes us as a civic body politic transforming the people into a singular political entity Juxtaposing this view with the legal model the Juridic Constitution John E Finn offers a comprehensive account of the Civic Constitution as a public affirmation of the shared principles of national self identity and as a particular vision of political community in which we the people play a significant and ongoing role in achieving a constitutional way of life The Civic Constitution is the constitution of dialogical engagement of contested meanings of political principles of education of conversation Peopling the Constitution seeks nothing less than a new interpretation of the American constitutional project in an effort to revive a robust understanding of citizenship It considers the entire constitutional project from its founding and maintenance to its failure with insights into topics ranging from the practice of deliberative democracy and the meaning of citizenship to constitutional fidelity civic virtue the separation of powers federalism and constitutional interpretation The Civic Constitution in Finn s telling is primarily a political project requiring an active engaged and most importantly constitutionally educated citizenry committed to the civic virtues of civility and tending When we as citizens are unwilling or unable to tend to and sustain the Constitution and when constitutional questions reduce to legal questions and obscure civic interests constitutional rot results And in post 9 11 America Finn argues constitutional rot has begun to set in With its multi dimensional vision of constitutional governance Finn s book stands as a corrective to accounts that locate the Constitution in and conceive it essentially as a legal instrument making a powerful and impassioned argument for restoring the people to their rightful place in the politics and practice of the Constitution

Living Originalism Jack M. Balkin, 2014-09-01 Originalism and living constitutionalism often seen as opposing views are not in conflict So argues Jack Balkin a leading constitutional scholar in this long awaited book Step by step Balkin shows how both liberals and conservatives play important roles in constitutional construction and offers a way past the angry polemics of our era

Constitutional Identity Gary Jeffrey Jacobsohn, 2010-10-29 Jacobsohn argues that a constitution acquires an identity through experience from a mix of the political aspirations and commitments that express a nation s past and the desire to transcend that past It is changeable but resistant to its own destruction and manifests itself in various ways

The Interpretation of Murder Jed Rubenfeld, 2007-05-15 International Bestseller 1 U K Bestseller The Wall Street Journal Bestseller Los Angeles Times Bestseller In the summer of 1909 Sigmund Freud arrived by steamship in New York Harbor for a short visit to America Though he would live another thirty years he would never return to this country Little is known about the week he spent in Manhattan and Freud s biographers have long speculated as to why in his later years he referred to Americans as savages and criminals In *The Interpretation of Murder* Jed Rubenfeld weaves the facts of Freud s visit into a riveting atmospheric story of corruption and murder set all over turn of the century New York Drawing on case histories Shakespeare s Hamlet and the historical details of a city on the brink of modernity *The Interpretation of Murder* introduces a brilliant new storyteller a novelist who in the words of The New York Times will be no ordinary pop

cultural sensation Memory and Authority Jack M. Balkin, 2024-02-27 From one of the nation's preeminent constitutional scholars a sweeping rethinking of the uses of history in constitutional interpretation Fights over history are at the heart of most important constitutional disputes in America The Supreme Court's current embrace of originalism is only the most recent example of how lawyers and judges try to use history to establish authority for their positions Jack M Balkin argues that fights over constitutional interpretation are often fights over collective memory Lawyers and judges construct and erase memory to lend authority to their present day views they make the past speak their values so they can then claim to follow it The seemingly opposed camps of originalism and living constitutionalism are actually mirror images of a single phenomenon how lawyers use history to adapt an ancient constitution to a constantly changing world Balkin shows how lawyers and judges channel history through standard forms of legal argument that shape how they use history and even what they see in history He explains how lawyers and judges invoke history selectively to construct authority for their claims and undermine the authority of opposing views And he elucidates the perpetual quarrel between historians and lawyers showing how the two can best join issue in legal disputes This book is a sweeping rethinking of the uses of history in 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 **European**

Sovereignty, Legitimacy, and Power Bart M.J. Szewczyk, 2020-12-23 This book shows how the EU's dual sovereignty legitimacy problem can be resolved through the political concept of European citizenship which can serve both to define the scope of European sovereignty and to justify EU power beyond national democracy It reconceptualizes the EU's legitimacy problem and demonstrates how sources of legitimacy can be identified and give rise to European sovereignty It argues that sovereignty should be based on the will of citizens acting through various political bodies within the EU city halls regional entities national governments and EU institutions and develops a general theory arguably applicable to any political order The EU is an unprecedented political project that is in tension with traditional forms of state legitimation based on national democracy as nationalists and populists throughout Europe often make clear Against this backdrop the book fully articulates the notion of European sovereignty and argues that the EU's sources of legitimacy are based on European citizenship and

national democracy This book will be of key interest to scholars and students of EU politics European integration international institutions and international relations *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 *Equality and Transparency* D. Sabbagh, 2007-08-20 Can affirmative action policies be convincingly justified And how have they been legitimized over time In a pluridisciplinary perspective at the intersection of political theory and the sociology of law Daniel Sabbagh criticizes the two prevailing justifications put forward in favor of affirmative action the corrective justice argument and the diversity argument He defends the policy instead as an instrument designed to bring about the deracialization of American society In this respect however affirmative action requires a measure of dissimulation in order to succeed *Equality and Transparency* explains why this is so and provides a new interpretation of the strategic component in the Supreme Court's case law while identifying some of its most remarkable side effects

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