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Processes of Constitutional Decisionmaking: Cases and Materials 1995

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Processes Of Constitutional Decisionmaking Cases And Materials 1995

William M. Wiecek



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Brest and Levinson's Processes of Constitutional Decisionmaking Sanford Levinson,1995 *Legal Canons* Jack M Balkin,Sanford V Levinson,2000-08-01 In this collection of enlightening essays legal scholars examine what is and what ought to be canonical in the study of law Every discipline has its canon the set of standard texts approaches examples and stories that form the lingua franca of its practitioners In *Legal Canons* some of today s finest legal minds seek to map out the legal canon and the way in which law is taught today In order to understand how the twin ideas of canons and canonicity operate in law each essay focuses on a particular aspect from contracts and constitutional law to questions of race and gender The ascendance of law and economics feminism critical race theory and gay legal studies as well as the increasing influence of both rational actor methodology and postmodernism are all scrutinized by the leading scholars in the field A timely and comprehensive volume *Legal Canons* articulates the need for and means to opening the debate on canonicity in legal studies

The Constitution as Social Design Gretchen Ritter,2006 This book focuses on gender and civic membership in American constitutional politics from the adoption of the Nineteenth Amendment through Second Wave Feminism It examines how American civic membership is gendered and how the terms of civic membership available to men and women shape their political identities aspirations and behavior The book also explores the dynamics of American constitutional development through a focus on civic membership a legal and political construct at the heart of the constitutional order This is a book about gender politics and constitutional development and about what each of these can tell us about the other It considers the options and choices faced by women s rights activists in the United States as they voiced their claims for civic inclusion from Reconstruction through Second Wave Feminism and it makes evident the limits of liberal citizenship for women

Journal of Legal Education Volume 45.March 1995 .Number 1 Association of American Law Schools,Jonathan L. Entin,Erik M. Jensen,William P. Marshall,Editors.,1995 *Current Controversies in Political Philosophy* Thom Brooks,2015-07-03 *Current Controversies in Political Philosophy* brings together an international team of leading philosophers to explore and debate four key and dynamic issues in the field in an accessible way Should we all be cosmopolitans Gillian Brock and Cara Nine Are rights important Rowan Cruft and Sonu Bedi Is sexual objectification wrong and if so why Lina Papadaki and Scott Anderson What to do about climate change Alexa Zellentin and Thom Brooks These questions are the focus of intense debate Preliminary chapter descriptions bibliographies following each chapter and annotated guides to supplemental readings help provide clearer and richer snapshots of active controversy for all readers

The Burden of Proof in Comparative and International Human Rights Law Juliane Kokott,2023-12-28 This book explores how courts decide or ought to decide in situations of uncertainty A Court must always decide the case before it even

if the relevant facts remain unclear The question then arises which party benefits and which party is burdened by that uncertainty In these cases the Court must apply the rules on the burden of proof or more precisely the burden of persuasion Their importance for the individual claimant is obvious The comparison of two domestic systems one based on common law and the other a traditional code based legal order with regard to the issue of burden of proof helps to clarify the terminology and lays the ground for dealing with the burden of proof in international human rights law Without knowing what can be understood by the term burden of proof under domestic law international lawyers with different domestic law backgrounds are in danger of misunderstanding each other This may lead to obscuring the problems connected with court decisions involving uncertainty The study also deals with uncertainties with regard to legislative general in contrast to adjudicative individual facts and with uncertainties in the framework of predictions in contrast to uncertainties relating to historic facts It attempts to prepare the ground for dealing more consciously and more consistently with problems of uncertainty in international human rights law International courts due to their geographical and cultural distance from the case usually have less access to the underlying facts Nevertheless in order to protect human rights effectively international courts and tribunals cannot always restrict themselves to reviewing the law but may also have to decide on the facts Thus issues relating to decision making on the basis of uncertain facts including the burden of persuasion are even more important in international than in domestic human rights law

The Imperial Republic James G. Wilson, 2018-02-06 This title was first published in 2002 The Imperial Republic addresses the enduring relationship that the American constitution has with the concept of empire Early activists frequently used the word to describe the nation they wished to create through revolution and later reform The book examines what the Framers of the Constitution meant when they used the term empire and what such self conscious empire building tells Americans about the underlying goals of their constitutional system Utilizing the author's extensive research from colonial times to the turn of the twentieth century the book concludes that imperial ambition has profoundly influenced American constitutional law theory and politics It uses several analytical techniques to ascertain the multiple meanings of such fundamental words as empire and republic and demonstrates that such concepts have at least four levels of meaning Relying on numerous examples it further concludes that American leaders frequently even proudly used the word with some of its most domineering implications

The Lost World of Classical Legal Thought William M. Wiecek, 2001 This text examines the ideology of elite lawyers and judges from the Gilded Age to the New Deal Between 1866 and 1937 this coherent outlook or legal orthodoxy shaped the way the American bar interpreted and understood the law

Zones of Twilight Amanda DiPaolo, 2010-01-01 The Bill of Rights was designed to protect the American public from encroachments of liberty by the federal government During times of war the president often spearheads efforts to limit rights in the name of national security When these cases make their way through the federal courts system it is expected that the judiciary would use rights based language in their adjudication of cases dealing with

such rights based claims Zones of Twilight shows that the courts actually use the separation of powers to decide these cases In other words the courts look to see if Congress has authorized the president to limit the liberties in question More often than not if Congress is on board so are the federal courts Although the common conception is that the courts give the presidents a blank check during war it is in fact Congress that has received that blank check Zones of Twilights looks at four reoccurring issues during times of war where the courts have had to decide cases where the executive has limited individual freedoms military detentions warrantless electronic surveillance emergency economic powers and free speech Book jacket

Stanford Law Review: Volume 63, Issue 1 - December 2010 Stanford Law Review,2011-01-20 One of the leading and most read law journals adds multiple digital editions to its worldwide distribution This current issue of the Stanford Law Review contains studies of law economics and social policy by scholars Ryan Scott on sentencing disparity Scott Hershovitz what Harry Potter means to torts Robert Cooter Neil Siegel collective federalism and Brian Galle Jonathan Klick alternative minimum tax Volume 63 Issue 1 s contents include Inter Judge Sentencing Disparity After Booker A First Look by Ryan W Scott Harry Potter and the Trouble with Tort Theory by Scott Hershovitz Collective Action Federalism A General Theory of Article I Section 8 by Robert D Cooter Neil S Siegel Recessions and the Social Safety Net The Alternative Minimum Tax as a Countercyclical Fiscal Stabilizer by Brian Galle Jonathan Klick

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The Constitution Michael Stokes Paulsen,Luke Paulsen,2017-01-03 The definitive modern primer on the US Constitution an eloquent testament to the Constitution as a covenant across generations National Review From freedom of speech to gun ownership religious liberty to abortion practically every aspect of American life is shaped by the Constitution Yet most of us know surprisingly little about the Constitution itself In The Constitution legal scholars Michael Stokes Paulsen and Luke Paulsen offer a lively introduction to the supreme law of the United States Beginning with the Constitution s birth in 1787 Paulsen and Paulsen offer a grand tour of its provisions principles and interpretation introducing readers to the characters and controversies that have shaped the Constitution in the 200 plus years since its creation Along the way the authors correct popular misconceptions about the Constitution and offer powerful insights into its true meaning This lucid

guide provides readers with the tools to think critically about constitutional issues a skill that is ever more essential to the continued flourishing of American democracy

Reconstructing the National Bank Controversy Eric

Lomazoff,2018-11-07 The Bank of the United States sparked several rounds of intense debate over the meaning of the Constitution s Necessary and Proper Clause which authorizes the federal government to make laws that are necessary for exercising its other powers Our standard account of the national bank controversy however is incomplete The controversy was much more dynamic than a two sided debate over a single constitutional provision and was shaped as much by politics as by law With *Reconstructing the National Bank Controversy* Eric Lomazoff offers a far more robust account of the constitutional politics of national banking between 1791 and 1832 During that time three forces changes within the Bank itself growing tension over federal power within the Republican coalition and the endurance of monetary turmoil beyond the War of 1812 drove the development of our first major debate over the scope of federal power at least as much as the formal dimensions of the Constitution or the absence of a shared legal definition for the word necessary These three forces sometimes alone sometimes in combination repeatedly reshaped the terms on which the Bank s constitutionality was contested Lomazoff documents how these three dimensions of the polity changed over time and traces the manner in which they periodically led federal officials to adjust their claims about the Bank s constitutionality This includes the emergence of the Coinage Clause which gives Congress power to coin money regulate the value thereof as a novel justification for the institution He concludes the book by explaining why a more robust account of the national bank controversy can help us understand the constitutional basis for modern American monetary politics

From Slavery to the Cooperative

Commonwealth Alex Gourevitch,2014-12-08 This book reconstructs how a group of nineteenth century labor reformers appropriated and radicalized the republican tradition These labor republicans derived their definition of freedom from a long tradition of political theory dating back to the classical republics In this tradition to be free is to be independent of anyone else s will to be dependent is to be a slave Borrowing these ideas labor republicans argued that wage laborers were unfree because of their abject dependence on their employers Workers in a cooperative on the other hand were considered free because they equally and collectively controlled their work Although these labor republicans are relatively unknown this book details their unique contemporary and valuable perspective on both American history and the organization of the economy

An Introduction to Rights William A. Edmundson,2012-01-23 A thoroughly updated second edition that is an accessible introduction to the history logic moral implications and political tendencies of the idea of rights

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