

Processes of Constitutional Decisionmaking

Brest, Paul

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Processes of Constitutional Decisionmaking Paul Brest, Sanford Levinson, Jack M. Balkin, 2005 Process of Constitutional Decisions 4e 2002 Case Supp Paul Brest, Brest, J. M. Balkin, Akhil Reed Amar, W St John Garwood and W St John Garwood Jr Centennial Chair in Law Sanford Levinson, 2002-08-29 **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 THE CONSTITUTIONAL LANDSCAPE IN CONTEMPORARY CHINA Qianfan Zhang (张倩帆, 2024-05-30 In the past two decades China has endured together with the rest of the world two pandemics originating in Guangdong and Wuhan While the severity and management of these pandemics varied they both stemmed from the same root cause the absence of constitutional enforcement and protection of fundamental rights such as freedom of speech and press In the global village today especially given China s size and impact the Chinese constitutional democracy is critical not only for China itself but also for the whole world Largely following China s current 1982 Constitution this book aims to produce a contemporary landscape of Chinese constitutional developments in essentially all major areas Despite the lack of constitutional enforcement and serious backlashes in recent years the author believes that the Constitution still matters as China has achieved significant de facto progress in human rights and the rule of law since its Reform and Opening in 1978 Particularly increasing number of citizens are becoming aware of their constitutional rights which they are eager to defend in their interest Ultimately the future of China and the world depends on the efforts of the people themselves to promote its constitutional reforms and enforcement *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

The Power of Precedent Michael J. Gerhard, 2008-02-12 The role that precedent plays in constitutional decision making is a perennially divisive subject among scholars of law and American politics The debate rages over both empirical and normative aspects of the issue To what extent are the Supreme Court Congress and the executive branch constrained by precedent To what extent should they be Taking up a topic long overdue for comprehensive treatment Michael Gerhard connects the vast social science data and legal scholarship to provide the most wide ranging assessment of precedent in several decades Updated to reflect recent legal cases The Power of Precedent clearly outlines the major issues in the continuing debates on the significance of precedent and evenly considers all sides For the Supreme Court precedents take many forms including not only the Court s past opinions but also norms historical practices and traditions that the justices have deliberately chosen to follow In these forms precedent exerts more force than is commonly acknowledged This force is encapsulated in the implementation and recognition of what Gerhard calls the golden rule of precedent a major dynamic in constitutional law The rule calls upon justices and other public authorities to recognize that since they expect others to respect their own precedents they must provide the same respect to others precedents Gerhard s extensive exploration of precedent leads him to formulate a more expansive definition of it one that encompasses not only the prior constitutional decisions of courts but also the constitutional judgments of other public authorities Gerhard concludes his study by looking at what the future holds for the concept as he examines the decisions and attitudes toward precedent exhibited by the shift from the Rehnquist to the Roberts Court Authoritative and incisive Gerhard presents an in depth look at this central yet understudied phenomenon at the core of all constitutional conflicts and one of undeniable importance to American law and politics Ultimately The Power of Precedent vividly illustrates how constitutional law is made and evolves both in and outside of the courts

Recalibrating Reform Stuart Chinn, 2014-04-21 Some of the most important eras of reform in US history reveal a troubling pattern often reform is compromised after the initial legislative and judicial victories have been achieved Thus Jim Crow racial exclusions followed

Reconstruction employer prerogatives resurged after the passage of the Wagner Act in 1935 and after the civil rights reforms of the mid twentieth century principles of color blindness remain dominant in key areas of constitutional law that allow structural racial inequalities to remain hidden or unaddressed When momentous reforms occur certain institutions and legal rights will survive the disruption and remain intact just in different forms Thus governance in the post reform period reflects a systematic recalibration or reshaping of the earlier reforms as a result of the continuing influence and power of such resilient institutions and rights Recalibrating Reform examines this issue and demonstrates the pivotal role of the Supreme Court in post reform recalibration **A Companion to Post-1945 America** Jean-Christophe Agnew, Roy

Rosenzweig, 2008-04-15 A Companion to Post 1945 America is an original collection of 34 essays by key scholars on the history and historiography of Post 1945 America Covers society and culture people and movements politics and foreign policy Surveys and evaluates the best scholarship on every important era and topic Includes book review section on essential readings **Wrestling with Diversity** Sanford Levinson, 2003-10-27 A major legal scholar and author writes on how to

honor society's desire to further diversity legally and ethically **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 Race, Law, and American Society Gloria J. Browne-Marshall, 2007 Despite the obstacles to equality under law black Americans have set a

determined path to make the words of the Preamble of the Declaration of Independence a reality for themselves and others This book is an introduction to race and law in America It is designed as a tool to the understanding of the role of race in American society through the prism of legal cases brought by and against blacks The analysis will include American colonial laws landmark Supreme Court cases of the 19th and 20th centuries as well as relevant recent decisions In examining these cases the reader will discern the great impact civil rights cases have had on American society as well as the effect our society has had on the legal system It will provide the reader with a foundation for present day discourse involving pressing issues of race in American society **Federalism** Vicki C. Jackson, Susan Low Bloch, 2013-09-09 This book analyzes the structure of our constitutional system of government providing an overview of the constitutional history of American federalism as it has been developed in decisions of the United States Supreme Court Federalism A Reference Guide to the United States

Constitution provides a thorough examination of this significant and distinctive part of the U S constitutional system documenting its role in major domestic constitutional controversies in every period of American history Although the book is organized historically rather than doctrinally the marked evolutions of important areas of doctrine are addressed over time These subject areas include the scope of Congress s power under the Commerce Clause the scope of Congress s powers under the Fourteenth and other post Civil War Amendments the states authority to regulate commercial and economic matters when Congress is silent the principle of the supremacy of federal law and the law of preemption that follows from it intergovernmental and sovereign immunities the obligation of state courts to enforce federal law and the scope of national power to regulate or impose obligations on the states The Oxford Companion to American Law ,2002 **The Mythic Meanings of the Second Amendment** David C. Williams,2003-01-01 David Williams offers a new reading of the Second Amendment suggesting that it guarantees to individuals a right to arms only insofar as they are part of a united consensual people so that their uprising can be a unified revolution rather than a civil war *Cases Without Controversies* James E. Pfander,2021 As it interprets the U S Constitution the Supreme Court defines the rights of individuals and referees disputes between the branches of government For many years the Court has limited access to those claimants who satisfy a shifting and sometimes amorphous case or controversy requirement Drawing on historical practice to clarify the meaning of the constitutional terms in question this book calls upon the Court to offer broader access to federal court and greater deference to congressional choices *Supreme Myths* Eric J. Segall,2012-02-22 This book explores some of the most glaring misunderstandings about the U S Supreme Court and makes a strong case for why our Supreme Court Justices should not be entrusted with decisions that affect every American citizen *Supreme Myths Why the Supreme Court is Not a Court and its Justices are Not Judges* presents a detailed discussion of the Court s most important and controversial constitutional cases that demonstrates why it doesn t justify being labeled a court of law Eric Segall professor of law at Georgia State University College of Law for two decades explains why this third branch of the national government is an institution that makes important judgments about fundamental questions based on the Justices ideological preferences not the law A complete understanding of the true nature of the Court s decision making process is necessary he argues before an intelligent debate over who should serve on the Court and how they should resolve cases can be held Addressing front page areas of constitutional law such as health care abortion affirmative action gun control and freedom of religion this book offers a frank description of how the Supreme Court truly operates a critique of life tenure of its Justices and a set of proposals aimed at making the Court function more transparently to further the goals of our representative democracy *What Brown V. Board of Education Should Have Said* Bruce A. Ackerman,2001-08 Nine of America s top legal experts rewrite the landmark desegregation decision as they would like it to have been written **Catalog of Copyright Entries. Third Series** Library of Congress. Copyright Office,1979 **Human Rights and World Public Order** Myres Smith McDougal,Harold Dwight

Lasswell, Lung-chu Chen, 2019 As a classic text of the New Haven School of International Law this book explores human rights and international law in the broadest sense taking into account social sciences research while embracing all values secured or consequently fulfilled or needed to thus be achieved The re issuance of this venerable title unveils this work to a new generation of scholars students and practitioners of international law and human rights *Reconsidering the Insular Cases* Gerald L. Neuman, Tomiko Brown-Nagin, 2015-05-25 Over a century ago the United States Supreme Court decided the Insular Cases which limited the applicability of constitutional rights in Puerto Rico and other overseas territories Essays in *Reconsidering the Insular Cases* examine the history and legacy of these cases and explore possible solutions for the dilemmas they created

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