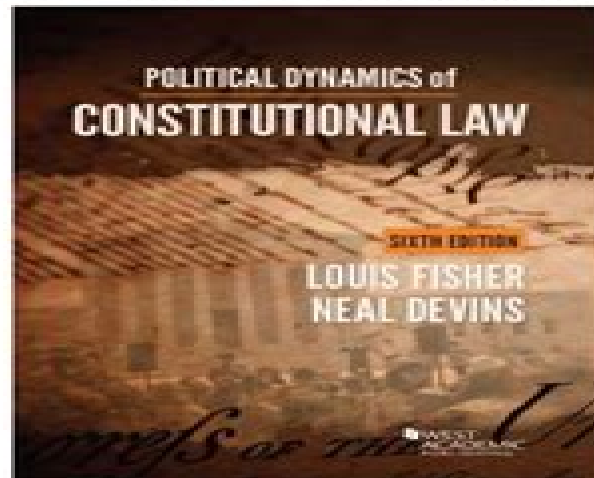


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Political Dynamics Of Constitutional Law

Louis Fisher



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Political Dynamics of Constitutional Law LOUIS. FISHER, Neal Devins, 2019 Political Dynamics of Constitutional Law is a different kind of constitutional law textbook Unlike others this book does not focus exclusively on Supreme Court decisions It goes beyond that showing how the Supreme Court is not the final word on the meaning of the Constitution It features 39 case studies that demonstrate conclusively that the process is far more open ended with no one branch occupying an exclusive and dominant position Each case study is written in an accessible and engaging style including a detailed introductory essay as well as excerpts of briefs oral arguments presidential orders and signing statements and legislative debates and reports All excerpts are edited to make them highly readable The book is completely up to date featuring case studies on Affordable Care Act same sex marriage Obama and Trump immigration orders and recess appointments as well as significant revisions to case studies on federalism separation of powers foreign affairs privacy and race If you are looking for a different approach to teaching Constitutional Law one that will interest students of all backgrounds and at all levels this book provides a roadmap to do it *The Democratic Constitution, 2nd Edition* Neal Devins, Louis Fisher, 2015-09-01

Constitutional law is clearly shaped by judicial actors But who else contributes Scholars in the past have recognized that the legislative branch plays a significant role in determining structural issues such as separation of powers and federalism but stopped there claiming that only courts had the independence and expertise to safeguard individual and minority rights In this readable and engaging narrative the authors identify the nuts and bolts of the national dialogue and relate succinct examples of how elected officials and the general public often dominate the Supreme Court in defining the Constitution's meaning Making use of case studies on race privacy federalism war powers speech and religion Devins and Fisher demonstrate how elected officials uphold individual rights in such areas as religious liberty and free speech as well as and often better than the courts This fascinating debunking of judicial supremacy argues that nonjudicial contributions to constitutional interpretation make the Constitution more stable more consistent with constitutional principles and more protective of individual and minority rights Congress, the Court, and the Constitution United States. Congress. House. Committee on the Judiciary. Subcommittee on the Constitution, 1999 Record of Proceedings on H.R. 3829, the Intelligence Community Whistleblower Protection Act of the House Permanent Select Committee on Intelligence, May 20, 1998 and June 10, 1998, 105th Congress, Second Session United States. Congress. House. Permanent Select Committee on Intelligence, 1999 Is the Supreme Court the Guardian of the Constitution? Robert A. Licht, 1993 This book examines the controversy surrounding the conventional wisdom that the Court is the guardian of the Constitution and the ultimate defender of our liberties *The Collaborative Constitution* Aileen Kavanagh, 2023-10-26 In this book Aileen Kavanagh offers a fresh account of how we should protect rights in a democracy Departing from leading theoretical accounts which present the courts and legislature as rivals for constitutional supremacy Kavanagh argues that protecting rights is a collaborative

enterprise between all three branches of government the Executive the legislature and the courts On a collaborative vision of constitutionalism protecting rights is neither the solitary task of a Herculean super judge nor the dignified pronouncements of an enlightened legislature Instead it is a complex dynamic and collaborative endeavour where each branch has a distinct but complementary role to play whilst engaging with each other in a spirit of comity and mutual respect Connecting constitutional theory with the practice of protecting rights in a democracy this book offers an innovative understanding of the separation of powers grounded in the values and virtues of constitutional collaboration

Constitutional Conflicts between Congress and the President Louis Fisher, 2014-08-19 Over three decades after its initial publication Louis Fisher's durable classic remains at the head of its class a book that Congressional Quarterly called as close to being indispensable as anything published in this field This newly revised sixth edition emphatically reinforces that sterling reputation Fisher dissects the crucial constitutional disputes between the executive and legislative branches of government from the Constitutional Convention through President Clinton's impeachment battles to the recent controversies over President Bush's conduct as commander in chief He ventures beyond traditional discussions of Supreme Court decisions to examine the day to day working relationships between the president and Congress By analyzing a mixture of judicial pronouncements executive acts and legislative debates Fisher pinpoints the critical areas of legislative executive tension appointment powers investigatory powers legislative and executive vetoes the budgetary process and war powers He then examines these areas of tension within a concrete political and historical context To scholars this book offers a comprehensive examination of the institutions and issues of public law For practitioners general readers and students of American government it demonstrates how constitutional issues shape and define current events The new edition covers for the first time Obama's military decisions in Afghanistan and Iraq Military operations against Libya in 2011 Threatened attacks on Syria in 2013 Efforts to close Guantanamo Obama's recess appointments during a pro forma session Fast and Furious scandal Holder's contempt and Obama's executive privilege The growth of presidential czars Executive branch secrecy and lack of accountability State Secrets Privilege after 9/11 Distinguishing between implied powers constitutional and inherent powers not constitutional Pocket vetoes and the growth of hybrid vetoes New developments in the President's removal power

Politics and Constitutionalism Robert J. Spitzer, 2000-05-18 Examines the work of Louis Fisher renowned scholar of constitutional law and politics

Potential Congressional Responses to the Supreme Court's Decision in State Farm Mutual Automobile Ins. V. Campbell United States. Congress. House. Committee on the Judiciary. Subcommittee on the Constitution, 2003

Defending Congress and the Constitution Louis Fisher, 2011-09-07 The culmination of four decades of research and service on behalf of Congress Louis Fisher's latest work is a fitting capstone to a remarkable career as scholar and writer and presents his most articulate passionate and persuasive defense yet of Congress as an institution Our nation's leading authority on the separation of powers Fisher offers a lucid primer on our nation's government and its executive legislative and judicial

branches while vigorously advocating a robust reassertion of Congress's rightful role within that system. Drawing on a wide range of legislation, Supreme Court rulings, and presidential decisions, Fisher illuminates the contentious contest among the three major branches for power and control of government. It presents a panorama of American history and touches on issues as wide ranging as federalism, religious freedom, and national security policy. Fisher is especially critical of the stereotypical view of the Supreme Court's decisions as possessing a kind of effectiveness and absolute finality that transcends the efforts and powers of Congress. Indeed, he argues that Congress, as much or more than the judiciary, has had a major positive impact on protecting individual rights in this country, while the judiciary has fallen short in such areas as child labor regulation and compulsory flag salute, or has attempted to settle a constitutional issue only to have it fester for years, breeding anger and resentment until the political process forces the courts to rethink their views. He highlights legislative accomplishments in many areas, often in the face of judicial opposition and obstruction, but also chides Congress for not protecting its key prerogatives over the power of the purse and going to war. In yielding to other branches, Fishers warns, lawmakers fail to represent their constituents and cripple the very system of checks and balances the Framers counted on to limit the destructive capacity of government. His book offers a wealth of forceful insights and provides an important reminder of and guide to how our government should really work.

Constitutionalization of Politics in Comparative Perspective Paweł Laidler, Dariusz Stoliczka, Łukasz Jakubiak, Jacek Sokołowski, 2024-11-25. Scholars from political science and law examine the latest research on the constitutionalization of politics in comparative perspective. The scope includes both inter-country and intra-country perspectives, institutional and systemic analyses, common and civil law systems, focusing on historical and contemporary case studies. There are chapters limited to a concrete legal and political system, analyzing the tools and processes guarding constitutionalization of politics in such countries as the United States, Germany, France, Italy, Poland, Finland, and Bulgaria, as well as studies offering comparative analysis of various institutions representing different countries and different legal and political systems. Taken together, this book uncovers a wide variety of legal and political cultures, systems of governments, and forms of territorial organization. Once uncovered, this approach makes it easier to determine repetitive patterns which may be observed in constitutional review and constitutional interpretation, or significant differences occurring in the models of constitutionalization of politics around the world. *Constitutionalization of Politics in Comparative Perspective* tackles important debates among academics interested in the theoretical and practical aspects of constitutions and constitutionalism and will appeal to social scientists including sociologists, philosophers, security studies, and international relations experts, but also cultural studies scholars.

The Democratic Constitution Neal Devins, Louis Fisher, 2015. Constitutional law is clearly shaped by judicial actors. But who else contributes? Scholars in the past have recognized that the legislative branch plays a significant role in determining structural issues such as separation of powers and federalism, but stopped there, claiming that only courts had the independence and expertise to safeguard individual and minority rights. In this readable and engaging

narrative the authors identify the nuts and bolts of the national dialogue and relate succinct examples of how elected officials and the general public often dominate the Supreme Court in defining the Constitution's meaning. Making use of case studies on race, privacy, federalism, war powers, speech, and religion, Devins and Fisher demonstrate how elected officials uphold individual rights in such areas as religious liberty and free speech as well as and often better than the courts. This fascinating debunking of judicial supremacy argues that nonjudicial contributions to constitutional interpretation make the Constitution more stable, more consistent with constitutional principles, and more protective of individual and minority rights.

Constitution, Public Finance, and Transition Ringa Raudla, 2010. This book explores the role of constitutions in public finance with a special focus on transitional context in Central and Eastern Europe. The main questions addressed are: How do formal constitutional provisions that matter for public finance come about? How do constitutions shape policy choices in public finance? Part I of the book puts forth an analytical framework for analysing how fiscal constitutional provisions come about and tests the conjectures with the case of constitution making in Estonia in 1991-1992. Part II summarises syntheses and criticises the emerging orthodoxy in positive constitutional public finance and examines whether it can explain the commitment to fiscal discipline in Estonia between 1992 and 2007. Part III examines theoretically and empirically how constitutions can shape public finance laws via constitutional review, auto-limitation, and constitutional deliberations.

The Constitution and 9/11 Louis Fisher, 2008. *The Constitution and 9/11* provides a comprehensive, striking, and disturbing analysis of executive misuse of power that is made all the more compelling by placing it in a rich and fascinating historical context. No better book is available for placing post-9/11 government actions in the matrix of history and explaining how executive power has degraded the Constitution and citizen rights.

Europe's Functional Constitution Turkuler Isiksel, 2016-05-26. Constitutionalism has become a byword for legitimate government, but is it fated to lose its relevance as constitutional states relinquish power to international institutions? This book evaluates the extent to which constitutionalism as an empirical idea and normative ideal can be adapted to institutions beyond the state by surveying the sophisticated legal and political system of the European Union. Having originated in a series of agreements between states, the EU has acquired important constitutional features like judicial review, protections for individual rights, and a hierarchy of norms. Nonetheless, it confounds traditional models of constitutional rule to the extent that its claim to authority rests on the promise of economic prosperity and technocratic competence rather than on the democratic will of citizens. Critically appraising the European Union and its legal system, this book proposes the idea of functional constitutionalism to describe this distinctive configuration of public power. Although the EU is the most advanced instance of functional constitutionalism to date, understanding this pragmatic mode of constitutional authority is essential for assessing contemporary international economic governance.

Engineering Constitutional Change Xenophōn I. Kontiadēs, 2013. This volume provides a holistic presentation of the reality of constitutional change in 18 countries: the 15 old EU member states, Canada, Switzerland, and the

USA The essays offer analysis on formal and informal constitutional amendment bringing forth the overall picture of the parallel paths constitutional change follows in correlation to what the constitution means and how constitutional law works To capture the patterns of constitutional change multi faceted parameters are explored such as the interrelations between form of government party system and constitutional amendment the interplay between constitutional change and the system of constitutionality review the role of the people civil society and experts in constitutional change and the influence of international and European law and jurisprudence on constitutional reform and evolution In the extensive final comparative chapter key features of each country s amendment procedures are epitomized and the mechanisms of constitutional change are explained on the basis of introducing five distinct models of constitutional change The concept of constitutional rigidity is re approached and broken down to a set of factual and institutional rigidities The classification of countries within models in accordance with the way in which operative amending mechanisms connect leads to a succinct portrayal of different modes of constitutional change engineering This book will prove to be an invaluable tool for approaching constitutional revision either for theoretical or for practical purposes and will be of particular interest to students and scholars of constitutional comparative and public law

American Constitutional Law, Volume I Ralph Rossum,G. Alan Tarr,Vincent Phillip Munoz,2019-07-23 American Constitutional Law 11e Volume I provides a comprehensive account of the nation s defining document examining how its provisions were originally understood by those who drafted and ratified it and how they have since been interpreted by the Supreme Court Congress the President lower federal courts and state judiciaries Clear and accessible chapter introductions and a careful balance between classic and recent cases provide students with a sense of how the law has been understood and construed over the years The 11th Edition has been fully revised to include several new cases including Trump v Hawaii 2018 in which Chief Justice Roberts held that Korematsu v United States has been overruled in the court of history Murphy v National Collegiate Athletic Association 2018 in which Justice Alito s majority opinion provides the most compelling argument to date against federal commandeering of state officials and Sveen v Melin 2018 a Contract Clause case that shows the Court s continuing refusal to give a textualist reading of that provision even in the face of Justice Gorsuch s compelling and amusing dissent A revamped and expanded companion website offers access to even more additional cases an archive of primary documents and links to online resources making this text essential for any constitutional law course

Constitutionalism and the Rule of Law Maurice Adams,Anne Meuwese,Ernst Hirsch Ballin,2017-02-02 Rule of law and constitutionalist ideals are understood by many if not most as necessary to create a just political order Defying the traditional division between normative and positive theoretical approaches this book explores how political reality on the one hand and constitutional ideals on the other mutually inform and influence each other Seventeen chapters from leading international scholars cover a diverse range of topics and case studies to test the hypothesis that the best normative theories including those regarding the role of constitutions constitutionalism and the rule of law conceive of

the ideal and the real as mutually regulating *Making Policy, Making Law* Mark Carlton Miller, Jeb Barnes, 2004 This volume proposes a new way of understanding the policymaking process in the United States by examining the complex interactions among the three branches of government executive legislative and judicial Collectively across the chapters a central theme emerges that the U S Constitution has created a policymaking process characterized by ongoing interaction among competing institutions with overlapping responsibilities and different constituencies one in which no branch plays a single static part At different times and under various conditions all governing institutions have a distinct role in making policy as well as in enforcing and legitimizing it This concept overthrows the classic theories of the separation of powers and of policymaking and implementation specifically the principal agent theory in which Congress and the presidency are the principals who create laws and the bureaucracy and the courts are the agents who implement the laws if they are constitutional The book opens by introducing the concept of adversarial legalism which proposes that the American mindset of frequent legal challenges to legislation by political opponents and special interests creates a policymaking process different from and more complicated than other parliamentary democracies The chapters then examine in depth the dynamics among the branches primarily at the national level but also considering state and local policymaking Originally conceived of as a textbook because no book exists that looks at the interplay of all three branches it should also have significant impact on scholarship about national lawmaking national politics and constitutional law Intro conclusion and Dodd s review all give good summaries **Competition and Structure** Albert Breton, 2000-06-05 The essays in this volume written by well known economists and other social scientists from North America Europe and in one case Australia share to an unusual degree a common concern with the competitive mechanisms that underlie collective decisions and with the way they are embedded in institutional settings This gives the book a unitary inspiration whose value is clear from the new understanding and insights its chapters provide on important theoretical and practical issues such as the social dimension and impact of trust the management of information in bureaucratic settings the role of political parties in constitutional evolution inter level rivalry and reassignments of powers in federal and unitary systems of government the impact of ethnicity and nationalism on federal institutions or arrangements and the response of governments and overarching institutions of globalization

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