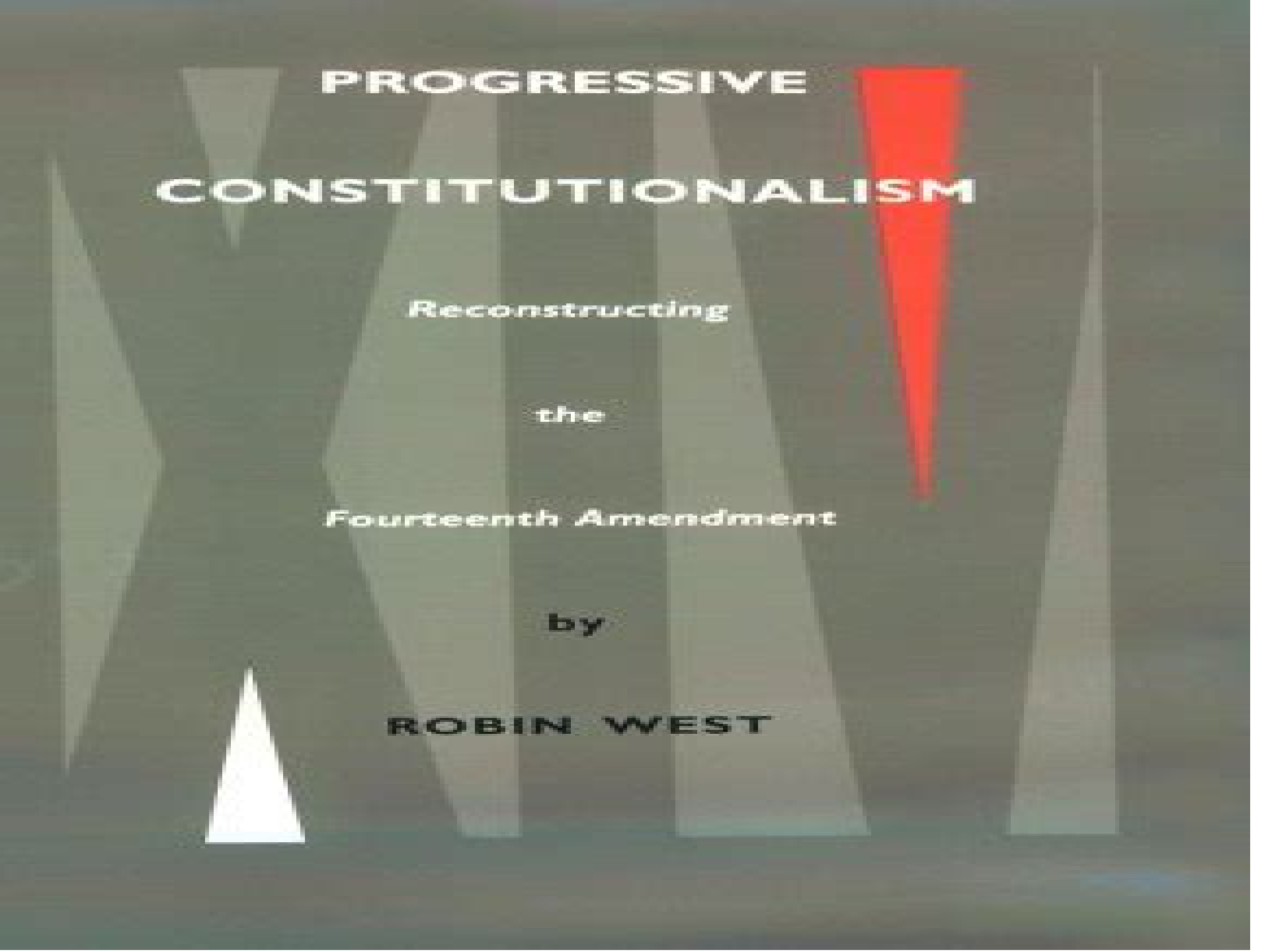


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PROGRESSIVE CONSTITUTIONALISM

Reconstructing

the

Fourteenth Amendment

by

ROBIN WEST

Progressive Constitutionalism

Robin West



Progressive Constitutionalism:

Progressive Constitutionalism Robin West, 1994 The Fourteenth Amendment guarantees all citizens equal protection under the law as well as immunity from laws that deprive them of life liberty or property without due process of law In Progressive Constitutionalism Robin West develops an interpretation of this amendment that contrasts with the views conservative and liberal of the Rehnquist Burger and Warren Courts and with the radical antisubordinationist account provided by the critical legal studies movement and many prominent feminist and critical race theorists Her interpretation consists of a substantive argument regarding the Amendment's core meaning and a jurisprudential argument regarding the role of the courts and Congress in fulfilling the Amendment's progressive promise West shows how the equal protection clause far from insulating the private spheres of culture market and home life as is commonly held directly targets abuses of power within those spheres She develops a number of arguments for the modern relevance of this understanding from the failure of the state to provide equal protection against private domestic violence permitting a private sovereignty of patriarchal power within the home to the state's failure to provide equal protection against material deprivation allowing private sovereignty between economically privileged and desperate people in private markets West's argument extends to the liberty prong of the due process clause seen here as a protection of the positive not negative liberty of citizens covering rights in such typically controversial areas as welfare education and domestic safety This interpretation recasts a number of contemporary constitutional issues such as affirmative action and hate speech and points to very different problems notably private unchecked criminal violence and extreme economic deprivation as the central constitutional dilemmas of our day Progressive Constitutionalism urges a substantive institutional and jurisprudential reorientation of our understanding of the Fourteenth Amendment one that would necessarily be pursued through Congressional rather than judicial channels In doing so with attention to history and both feminist and critical race scholarship it should reinvigorate our politics and our constitutional conversations and perhaps point us toward a more just society Is American Progressive Constitutionalism Dead ,1999

Common Good Constitutionalism Adrian Vermeule, 2022-02-08 The way that Americans understand their Constitution and wider legal tradition has been dominated in recent decades by two exhausted approaches the originalism of conservatives and the living constitutionalism of progressives Is it time to look for an alternative Adrian Vermeule argues that the alternative has been there buried in the American legal tradition all along He shows that US law was from the founding subsumed within the broad framework of the classical legal tradition which conceives law as a reasoned ordering to the common good In this view law's purpose is to promote the goods a flourishing political community requires justice peace prosperity and morality He shows how this legacy has been lost despite still being implicit within American public law and convincingly argues for its recovery in the form of common good constitutionalism This erudite and brilliantly original book is a vital intervention in America's most significant contemporary legal debate while also being an enduring account of the true

nature of law that will resonate for decades with scholars and students **Revolutionary Constitutionalism** Richard Albert, 2020-04-02 This book the result of a major international conference held at Yale Law School contains contributions from leading scholars in public law who engage critically with Bruce Ackerman's path breaking book *Revolutionary Constitutions* Charismatic Leadership and the Rule of Law The book also features a rebuttal chapter by Ackerman in which he responds directly to the contributors' essays Some advance Ackerman's theory others attack it and still others refine it but all agree that the ideas in his book reset the terms of debate on the most important subjects in constitutionalism today from the promise and perils of populism to the causes and consequences of democratic backsliding from the optimal models of constitutional design to the forms and limits of constitutional amendment and from the role of courts in politics to how we identify when the mythical people have spoken A must read for all interested in the current state of constitutionalism

Asian Comparative Constitutional Law, Volume 2 Ngoc Son Bui, Mara Malagodi, 2024-08-22 This is the second in a 4 volume set that provides the definitive account of the major issues of comparative constitutional law in Asian jurisdictions Volume 2 looks at constitutional amendments and offers answers to questions about the formal rules for amending the constitution such as Who initiates an amendment proposal How is the amendment proposal adopted How are the amendments codified and the neo institutional questions regarding amendment practices such as Why is the constitution amended Who engages in the amendment process How does the amendment affect the political system and the society Volume 2 covers 17 Asian jurisdictions including Bangladesh Cambodia mainland China Hong Kong India Indonesia Japan Malaysia Mongolia Myanmar North Korea the Philippines Singapore South Korea Sri Lanka Taiwan and Thailand

American Conservatism, 1900-1930 Joseph Postell, Johnathan O'Neill, 2019-10-04 This book presents the most significant speeches and writings of American constitutional conservatives during the period 1900-1930 Figures such as William Howard Taft Calvin Coolidge Elihu Root Warren Harding and David Jayne Hill present the alternative arguments that challenged the leading Progressive views of the period Issues such as natural rights civil rights economic regulation federalism executive power political parties and foreign policy are addressed in these primary sources many of which are reproduced for the first time The readings in this book are relevant not only for understanding the political issues of the Progressive Era but also for understanding the foundations of contemporary American conservatism Natural Rights Individualism and Progressivism in American Political Philosophy: Volume 29, Part 2 Ellen Frankel Paul, Fred D. Miller (Jr.), Jeffrey Paul, 2012-08-27 In 1776 the American Declaration of Independence appealed to the Laws of nature and of Nature's God and affirmed these Truths to be self evident that all Men are created equal that they are endowed by their Creator with certain unalienable Rights that among these are Life Liberty and the Pursuit of Happiness In 1935 John Dewey professor of philosophy at Columbia University declared Natural rights and natural liberties exist only in the kingdom of mythological social zoology These opposing pronouncements on natural rights represent two separate and antithetical

American political traditions natural rights individualism the original Lockean tradition of the Founding and Progressivism the collectivist reaction to individualism which arose initially in the newly established universities in the decades following the Civil War 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 **Poverty Law and Legal Activism** Adam Gearey,2018-06-14 Linking critical legal thinking to constitutional scholarship and a practical tradition of US lawyering that is orientated around anti poverty activism this book offers an original revisionist account of contemporary jurisprudence legal theory and legal activism The book argues that we need to think in terms of a much broader inheritance for critical legal thinking that derives from the social ethics of the progressive era new left understandings of creative democracy and radical theology To this end it puts jurisprudence and legal theory in touch with recent scholarship on the American left and indeed with attempts to recover the legacies of progressive era thinking the civil rights struggle and the Great Society Focusing on the theory and practice of poverty law in the period stretching from the mid 1960s to the present day the book argues that at the heart of both critical and liberal thinking is an understanding of the lawyer as an ethical actor inspired by faith or politics to appreciate the potential and limits of law in the struggle against economic inequality **The Progressives' Century** Stephen Skowronek,Stephen M. Engel,Bruce A. Ackerman,2016-01-01 Chapter 20 How the Progressives Became the Tea Party s Mortal Enemy Networks Movements and the Political Currency of Ideas Chapter 21 What Is to Be Done A New Progressivism for a New Century List of Contributors Index A B C D E F G H I J K L M N O P R S T U V W Y Z

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