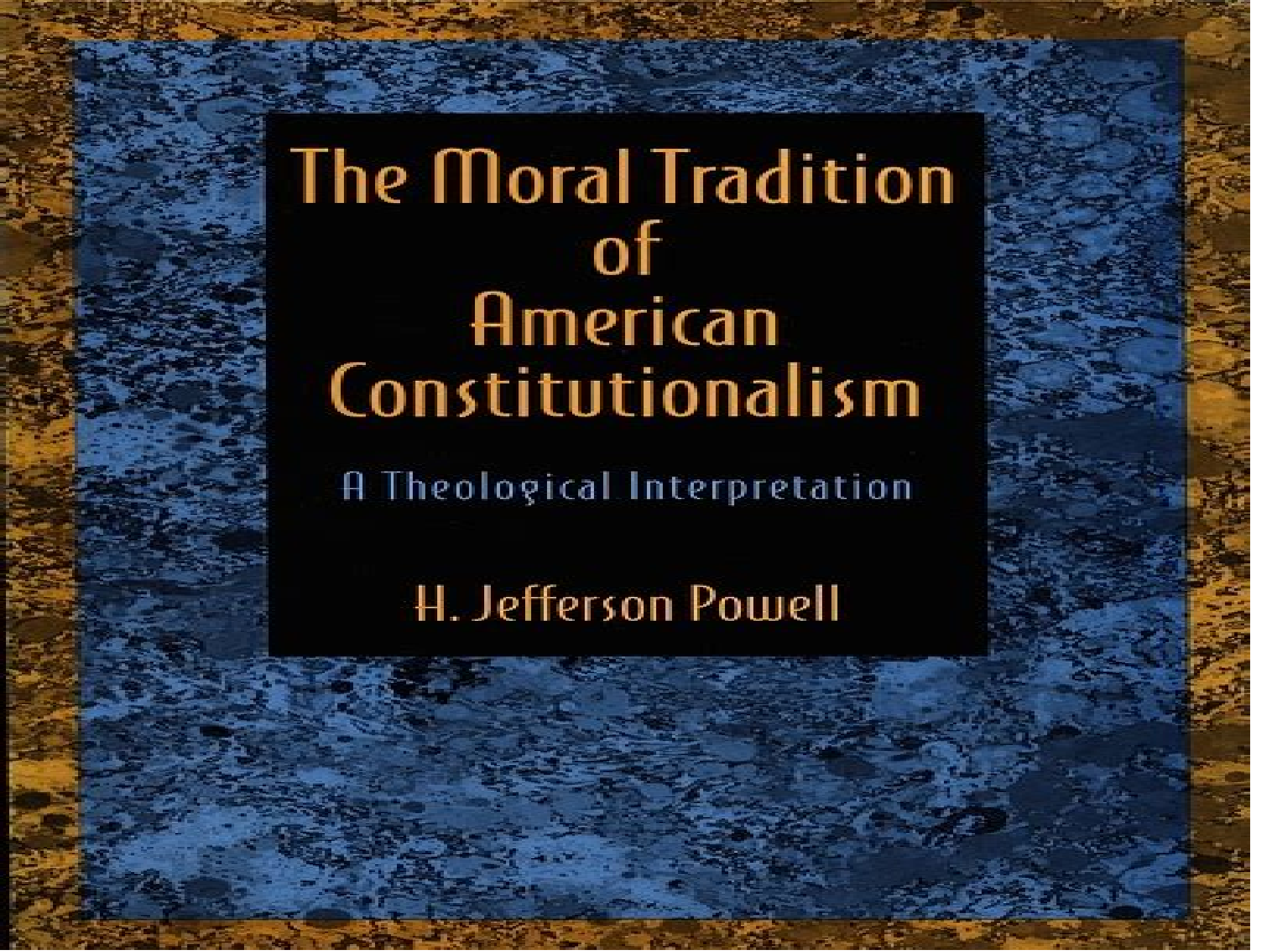




The Moral Tradition of American Constitutionalism

A Theological Interpretation

H. Jefferson Powell

The Moral Tradition Of American Constitutionalism A Theological Interpretation

Robert F. Cochran, Jr, Zachary R. Calo



The Moral Tradition Of American Constitutionalism A Theological Interpretation:

The Moral Tradition of American Constitutionalism Jefferson Powell, 1993 Debate over the relationship between morality and the law characterizes the contemporary discussion of American constitutionalism Many theorists equate constitutionalism with the social morality of the American community others deny the existence of such a community and identify constitutionalism simply as the positive law of the state In this thoughtful and innovative book H Jefferson Powell presents a theological interpretation of the connection between constitutionalism and morality Powell locates the origins of constitutional law in the Enlightenment attempt to control the violence of the state by subjecting power to reason He then traces constitutionalism s rapid evolution into a tradition of rational inquiry centered in the practice of adjudication and embodied in a community of lawyers and judges Finally Powell shows how the tradition s nineteenth century presuppositions about the autonomy and rationality of constitutional argument have been undermined in the twentieth century within the constitutional community itself by the acceptance of a positivist and democratic understanding of law Powell shows how the continued willingness of the courts to resolve moral questions by invoking the Constitution has thrown the constitutional tradition into an epistemological crisis He critiques the work of many major theorists John Hart Ely Bruce Ackerman Frank Michaelman Rogers Smith Michael Perry Mark Tushnet Robert Bork Sanford Levinson who he claims persist in attempting to resolve the crisis by redefining constitutionalism as American social morality With reference to Alasdair MacIntyre s concepts of moral tradition and social practice and John Howard Yoder s theological account of the state Powell places his analysis of current constitutionalism within a contemporary Christian theological critique of Western liberalism With certain exceptions Powell concludes there are theological grounds in the United States to prefer decision making by elected officials to decision by constitutional courts Despite the controversial implications for judicial practice and legal argument Powell ultimately argues that the liberal tradition of rational inquiry American constitutionalism be renounced by the Christian community in favor of the majoritarian political process

Book Review Jim Chen, 1995 American Constitutionalism as a Moral Tradition

H. Jefferson Powell, 1991 *Rehnquist Justice* Earl M. Maltz, 2003 With seven of its justices appointed by Republican presidents today s Supreme Court has significantly altered America s legal landscape since 1986 by tilting constitutional jurisprudence to the right That was the goal of Presidents Reagan and Bush in filling court vacancies and has been felt in cases related to federalism economic rights and affirmative action However liberal issues such as abortion have moved only marginally to the right while rulings by the Court on school prayer and gay rights have moved constitutional doctrine slightly to the left In this collection of original articles prominent constitutional scholars are joined by new voices from the cutting edge of academia to subject the Rehnquist Court to closer scrutiny and to show that its brand of conservatism is less extreme than many have supposed Reflecting views across the political spectrum the contributors help readers understand the Court dynamic its constrained conservatism and the forces that shape constitutional law in general

As these authors show the overall pattern of decision making in the Rehnquist era cannot be attributed to any single unified approach to constitutional analysis. Instead today's Court can only be understood as the product of a complex interaction among individual justices each with an idiosyncratic view of the proper interpretation of the Constitution and the role of the Court in the American political system. These provocative essays are designed to provide readers with insight into this interaction by focusing on each member of the bench. From the staunch conservatism of Clarence Thomas to the accommodationism of Sandra Day O'Connor to the liberal constitutionalism of David Souter the essays analyze the unique approach of each justice to interpreting the Constitution. They also show that the current justices are the product of a nomination and confirmation process that has undergone a major transformation in recent decades one which favors experienced often unknown jurists over high profile public servants. By concentrating attention on its members Rehnquist Justice allows us to better understand the Supreme Court as a whole. And by assessing today's judiciary in light of a public philosophy that looks askance at government it shows us that the Supreme Court has truly become a mirror of its times.

Reception Theory and Biblical Hermeneutics David Paul Parris, 2009-01-01 Traditional methods employed in biblical interpretation involve a two way dialogue between the text and the reader. Reception theory expands this into a three way dialogue with the third partner being the history of the text's interpretation and application. Most contemporary biblical interpreters have ignored this third partner although recently the need to include the history of interpretation has gained some attention. This book explores the hermeneutical resources that reception theory provides for engaging the history of biblical interpretation as a third dialogue partner in biblical hermeneutics. The first third of this work explores the philosophical background and hermeneutical framework that Hans Georg Gadamer provides for reception theory. The center of this study examines how this hermeneutical approach is fleshed out by Hans Robert Jauss. Jauss not only builds upon Gadamer's work but his literary hermeneutic provides a model applicable to the biblical text and its tradition of interpretation. The focus for the final third of the book shifts toward three studies that seek to demonstrate the applicability of various aspects of reception theory to biblical interpretation.

[The Oxford Handbook of Church and State in the United States](#) Derek H. Davis, 2010-10-19 Study of church and state in the United States is incredibly complex. Scholars working in this area have backgrounds in law religious studies history theology and politics among other fields. Historically they have focused on particular angles or dimensions of the church state relationship because the field is so vast. The results have mostly been monographs that focus only on narrow cross sections of the field and the few works that do aim to give larger perspectives are reference works of factual compendia which offer little or no analysis. The Oxford Handbook of Church and State in the United States fills this gap presenting an extensive multidimensional overview of the field. Twenty one essays offer a scholarly look at the intricacies and past and current debates that frame the American system of church and state within five main areas history law theology philosophy politics and sociology. These essays provide factual accounts but also

address issues problems debates controversies and where appropriate suggest resolutions They also offer analysis of the range of interpretations of the subject offered by various American scholars This Handbook is an invaluable resource for the study of church state relations in the United States **Jewish Law and American Law, Volume 1** Samuel J.

Levine,2021-02-16 This volume contributes to the growing field of comparative Jewish and American law presenting twenty six essays characterized by a number of distinct features The essays will appeal to legal scholars and at the same time will be accessible and of interest to a more general audience of intellectually curious readers These contributions are faithful to Jewish law on its own terms while applying comparative methods to offer fresh perspectives on complex issues in the Jewish legal system Through careful comparative analysis the essays also turn to Jewish law to provide insights into substantive and conceptual areas of the American legal system particularly areas of American law that are complex controversial and unsettled **The Public Administration Profession** Bradley S. Chilton,Stephen M. King,Viviane E. Foyou,J. Scott

McDonald,2018-09-03 While many introductory public administration textbooks contain a dedicated chapter on ethics The Public Administration Profession is the first to utilize ethics as a lens for understanding the discipline Analyses of the ASPA Code of Ethics are deftly woven into each chapter alongside complete coverage of the institutions processes concepts persons history and typologies a student needs to gain a thorough grasp of public service as a field of study and practice Features include A significant focus on public interests nonprofit management hybrid private organizations contracting out and collaborations and public service at state and local levels A careful examination of the role that religion may play in public servants decision making as well as the unignorable and growing role that faith based organizations play in public administration and nonprofit management at large End of chapter ethics case studies key concepts and persons and dedicated local community action steps in each chapter Appendices dedicated to future public administration and nonprofit career management writing successful papers throughout a student s career and professional codes of ethics A comprehensive suite of online supplements including lecture slides quizzes and sample examinations for undergraduate and graduate courses containing multiple choice true false identifications and essay questions chapter outlines with suggestions for classroom discussion and suggestions for use of appendices e g how to successfully write a short term paper a brief policy memo resume or a book review Providing students with a comprehensive introduction to the subject while offering instructors an elegant new way to bring ethics prominently into the curriculum The Public Administration Profession is an ideal introductory text for public administration and public affairs courses at the undergraduate or graduate level

Dispatches from the Front Stanley Hauerwas,1995 God knows it is hard to make God boring Stanley Hauerwas writes but American Christians aided and abetted by theologians have accomplished that feat Whatever might be said about Hauerwas and there is plenty no one has ever accused him of being boring and in this book he delivers another jolt to all those who think that Christian theology is a matter of indifference to our secular society At once Christian theology and social criticism

this book aims to show that the two cannot be separated In this spirit Hauerwas mounts a forceful attack on current sentimentalities about the significance of democracy the importance of the family and compassion which appears here as a literally fatal virtue In this time of the decline of religious knowledge when knowing a little about a religion tends to do more harm than good Hauerwas offers direction to those who would make Christian discourse both useful and truthful Animated by a deep commitment his essays exhibit the difference that Christian theology can make in the shaping of lives and the world

American Religious Democracy Bruce Ledewitz, 2007-03-30 The most significant public religious issue confronting America today is the relationship between Church and State Secular opinion holds that the rise of religion in the public square is a threat to our democracy that must be resisted American Religious Democracy argues that this position although understandable is misguided American political life after the 2004 Presidential election is best understood as a religious democracy though not of a fundamentalist variety This book explains the decline of secular democracy describes some of the legal political and religious implications of this new religious democracy and finally invites secular voters to participate in religious democracy The 2004 election clearly showed that a substantial number of voters in America now vote the way they do for what they consider to be religious reasons and that as a result of their voting government policy is changing to reflect their religious commitments The result has been the creation of a religious democracy However taking part in a religious democracy for Americans especially requires a new understanding of what religion means in a public and political sense Ledewitz takes a reasoned yet lively approach to the subject promoting a new understanding of what religious democracy is and how secularists can and should participate Looking at the Constitution the current nature of politics and religion and public attitudes toward capitalism the environment technology women's rights and international relations the author is able to construct a clearer picture of the religious and political landscape in America today

The Founding Fathers and the Debate Over Religion in Revolutionary America Matthew Harris, Thomas Kidd, 2012 Whether America was founded as a Christian nation or as a secular republic is one of the most fiercely debated questions in American history Historians Matthew Harris and Thomas Kidd offer an authoritative examination of the essential documents needed to understand this debate The texts included in this volume writings and speeches from both well known and obscure early American thinkers show that religion played a prominent yet fractious role in the era of the American Revolution In their personal beliefs the Founders ranged from profound skeptics like Thomas Paine to traditional Christians like Patrick Henry Nevertheless most of the Founding Fathers rallied around certain crucial religious principles including the idea that people were created equal the belief that religious freedom required the disestablishment of state backed denominations the necessity of virtue in a republic and the role of Providence in guiding the affairs of nations Harris and Kidd show that through the struggles of war and the framing of the Constitution Americans sought to reconcile their dedication to religious vitality with their commitment to religious freedom

Feminist Legal Theories Karen Maschke, 2013-09-13 Multidisciplinary focus Surveying many

disciplines this anthology brings together an outstanding selection of scholarly articles that examine the profound impact of law on the lives of women in the United States The themes addressed include the historical political and social contexts of legal issues that have affected women s struggles to obtain equal treatment under the law The articles are drawn from journals in law political science history women s studies philosophy and education and represent some of the most interesting writing on the subject The law in theory and practice Many of the articles bring race social and economic factors into their analyses observing for example that black women poor women and single mothers are treated by the wielders of the power of the law differently than middle class white women Other topics covered include the evolution of women s legal status reproduction rights sexuality and family issues equal employment and educational opportunities domestic violence pornography and sexual exploitation hate speech and feminist legal thought A valuable research and classroom aid this series provides in depth coverage of specific legal issues and takes into account the major legal changes and policies that have had an impact on the lives of American women

Integrity and Conscience Ian Shapiro, Robert Adams, 1998-04-01 Can individuals believe that they are acting with integrity yet in disobedience to the dictates of their conscience Can they retain fidelity to their conscience while ignoring a sense of what integrity requires Integrity and conscience are often thought to be closely related perhaps even different aspects of a single impulse This timely book supports a different and more complicated view Acting with integrity and obeying one s conscience might be mutually reinforcing in some settings but in others they can live in varying degrees of mutual tension Bringing together prominent scholars of legal theory and political philosophy the volume addresses both classic ruminations on integrity and conscience by Plato Hume and Kant as well as more contemporary examinations of professional ethics and the complex relations among politics law and personal morality

The Tragedy of Religious Freedom Marc O. DeGirolami, 2013-06-10 Legal scholars expect to resolve religious dilemmas according to principles of equality neutrality or separation of church and state But such abstractions fail to do justice to the clashing values in today s pluralistic society Marc DeGirolami explains why conflicts implicating religious liberty are so emotionally fraught and deeply contested

Recovering Self-Evident Truths Michael A. Scaperlanda, Teresa Stanton Collett, 2007-06 This book presents an engaging collection of essays exploring catholic and Catholic perspectives on American law catholic in their claims of universal truths and Catholic in their grounding in the teachings of the Roman Catholic Church

The Church as Polis Arne Rasmusson, 2025-02-15 Political theology is one of the most influential theological movements of the latter part of the twentieth century and yet as Arne Rasmusson argues here the field suffers from deep inherent tensions in its attempt to mediate the Christian tradition and the modern emancipatory tradition Rasmusson contributes to political theology through an innovative discussion of the relationship between church and society and an exposition of the thought and work of political theology s influential representative Jürgen Moltmann Rasmusson further refines his argument by filtering Moltmann s theology through an exploration of Stanley Hauerwas s theological positions

The Founding

Myth Andrew L Seidel, 2019-05-14 Do In God We Trust the Declaration of Independence and other historical evidence prove that America was founded on Judeo Christian principles Are the Ten Commandments the basis for American law A constitutional attorney dives into the debate about religion s role in America s founding In today s contentious political climate understanding religion s role in American government is more important than ever Christian nationalists assert that our nation was founded on Judeo Christian principles and advocate an agenda based on this popular historical claim But is this belief true The Founding Myth answers the question once and for all Andrew L Seidel a constitutional attorney at the Freedom from Religion Foundation builds his case point by point comparing the Ten Commandments to the Constitution and contrasting biblical doctrine with America s founding philosophy showing that the Bible contradicts the Declaration of Independence s central tenets Thoroughly researched this persuasively argued and fascinating book proves that America was not built on the Bible and that Christian nationalism is in fact un American Making Religion Safe for Democracy J. Judd Owen, 2015 This book examines a unified reinterpretation of Christianity by Hobbes Locke and Jefferson and compares that to de Tocqueville s analysis of changes *Agape, Justice, and Law* Robert F. Cochran, Jr, Zachary R. Calo, 2017-05-25 In a provocative essay philosopher Jeffrie G Murphy asks what would law be like if we organized it around the value of Christian love and if we thought about and criticized law in terms of that value This book brings together leading scholars from a variety of disciplines to address that question Scholars have given surprisingly little attention to assessing how the central Christian ethical category of love agape might impact the way we understand law This book aims to fill that gap by investigating the relationship between agape and law in Scripture theology and jurisprudence as well as applying these insights to contemporary debates in criminal law tort law elder law immigration law corporate law intellectual property and international relations At a time when the discourse between Christian and other world views is more likely to be filled with hate than love the implications of agape for law are crucial **The ^Aimplosion of American Federalism** Robert F. Nagel, 2002-11-28 At a time of unprecedented national power why do so many Americans believe that our nationhood is fragile and precarious Why the talk among politicians academics and jurists of coups d etat of culture wars of confederation of constitutional breakdown In this wide ranging book Robert Nagel proposes a surprising answer that anxiety about national unity is caused by centralization itself Moreover he proposes that this anxiety has dangerous cultural consequences that are in an implosive cycle pushing the country toward ever greater centralization Carefully examining recent landmark Supreme Court cases that protect states rights Nagel argues that the federal judiciary is not leading and is not likely to lead a revival of the complex system called federalism A robust version of federalism requires appreciation for political conflict and respect for disagreement about constitutional meaning both values that are deeply antithetical to the Court s function That so many believe this most centralized of our Nation s institutions is protecting even overprotecting state power is itself a sign of the depletion of those understandings necessary to sustain the federal system Instead of a support for federalism Nagel finds a

commitment to radical nationalism throughout the constitutional law establishment He traces this commitment to traditionally American traits like perfectionism optimism individualism and legalism Under modern conditions of centralization these attractive traits are leading to unattractive social consequences including tolerance fearfulness utopianism and deceptiveness They are degrading our political discourse All this encourages further centralization and further cultural deterioration This book puts the major federalism decisions within the framework of the Court's overall record including its record on individual rights in areas like abortion homosexuality and school desegregation And giving special attention to public debate over privacy and impeachment it places modern constitutional law in the context of political discourse more generally

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Table of Contents The Moral Tradition Of American Constitutionalism A Theological Interpretation

1. Understanding the eBook The Moral Tradition Of American Constitutionalism A Theological Interpretation
 - The Rise of Digital Reading The Moral Tradition Of American Constitutionalism A Theological Interpretation
 - Advantages of eBooks Over Traditional Books
2. Identifying The Moral Tradition Of American Constitutionalism A Theological Interpretation
 - Exploring Different Genres
 - Considering Fiction vs. Non-Fiction
 - Determining Your Reading Goals
3. Choosing the Right eBook Platform
 - Popular eBook Platforms
 - Features to Look for in an The Moral Tradition Of American Constitutionalism A Theological Interpretation
 - User-Friendly Interface
4. Exploring eBook Recommendations from The Moral Tradition Of American Constitutionalism A Theological Interpretation
 - Personalized Recommendations
 - The Moral Tradition Of American Constitutionalism A Theological Interpretation User Reviews and Ratings
 - The Moral Tradition Of American Constitutionalism A Theological Interpretation and Bestseller Lists
5. Accessing The Moral Tradition Of American Constitutionalism A Theological Interpretation Free and Paid eBooks
 - The Moral Tradition Of American Constitutionalism A Theological Interpretation Public Domain eBooks

- The Moral Tradition Of American Constitutionalism A Theological Interpretation eBook Subscription Services
- The Moral Tradition Of American Constitutionalism A Theological Interpretation Budget-Friendly Options
- 6. Navigating The Moral Tradition Of American Constitutionalism A Theological Interpretation eBook Formats
 - ePub, PDF, MOBI, and More
 - The Moral Tradition Of American Constitutionalism A Theological Interpretation Compatibility with Devices
 - The Moral Tradition Of American Constitutionalism A Theological Interpretation Enhanced eBook Features
- 7. Enhancing Your Reading Experience
 - Adjustable Fonts and Text Sizes of The Moral Tradition Of American Constitutionalism A Theological Interpretation
 - Highlighting and Note-Taking The Moral Tradition Of American Constitutionalism A Theological Interpretation
 - Interactive Elements The Moral Tradition Of American Constitutionalism A Theological Interpretation
- 8. Staying Engaged with The Moral Tradition Of American Constitutionalism A Theological Interpretation
 - Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - Following Authors and Publishers The Moral Tradition Of American Constitutionalism A Theological Interpretation
- 9. Balancing eBooks and Physical Books The Moral Tradition Of American Constitutionalism A Theological Interpretation
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection The Moral Tradition Of American Constitutionalism A Theological Interpretation
- 10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
- 11. Cultivating a Reading Routine The Moral Tradition Of American Constitutionalism A Theological Interpretation
 - Setting Reading Goals The Moral Tradition Of American Constitutionalism A Theological Interpretation
 - Carving Out Dedicated Reading Time
- 12. Sourcing Reliable Information of The Moral Tradition Of American Constitutionalism A Theological Interpretation
 - Fact-Checking eBook Content of The Moral Tradition Of American Constitutionalism A Theological Interpretation
 - Distinguishing Credible Sources

13. Promoting Lifelong Learning
 - Utilizing eBooks for Skill Development
 - Exploring Educational eBooks
14. Embracing eBook Trends
 - Integration of Multimedia Elements
 - Interactive and Gamified eBooks

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