



The Makers Of The Unwritten Constitution

University of Chicago Law Review

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Calculations The Availability of Discovery Sanctions for Violations of Protective Orders Corruption Clarified Defining the Reach of Agent in 18 USC 666 Extra Venues for Extraterritorial Crimes 18 USC 3238 and Cross Border Criminal Activity A Historical Approach to Negligent Misrepresentation and Federal Rule of Civil Procedure 9 b REVIEW ESSAY Commons and Growth The Essential Role of Open Commons in Market Economies by Yochai Benkler The University of Chicago Law Review first appeared in 1933 thirty one years after the Law School offered its first classes Since then the Law Review has continued to serve as a forum for the expression of ideas of leading professors judges and practitioners as well as student authors and as a training ground for University of Chicago Law School students who serve as its editors and contribute original research Principal articles and essays are authored by internationally recognized legal scholars Quality eBook editions feature active Contents linked footnotes and linked URLs in notes

The Silence of Constitutions (Routledge Revivals) Michael Foley, 2013-01-11 First published in 1989 Michael s Foley s book deals with the abeyances present in both written and unwritten constitutions arguing that these gaps in the explicitness of a constitution and the various ways they are preserved provide the means by which constitutional conflict is continually postponed Abeyances are valuable therefore not in spite of their obscurity but because of it

Judges and Unjust Laws Douglas E. Edlin, 2008-12-02 With keen insight into the common law mind Edlin argues that there are rich resources within the law for judges to ground their opposition to morally outrageous laws and a legal obligation on them to overturn it consequent on the general common law obligation to develop the law Thus seriously unjust laws pose for common law judges a dilemma within the law not just a moral challenge to the law a conflict of obligations not just a crisis of conscience While rooted firmly in the history of common law jurisprudence Edlin offers an entirely fresh perspective on an age old jurisprudential conundrum Edlin s case for his thesis is compelling Gerald J Postema Cary C Boshamer Professor of Philosophy and Professor of Law University of North Carolina at Chapel Hill and author of Bentham and the Common Law Tradition Douglas Edlin builds a powerful historical conceptual and moral case for the proposition that judges on common law grounds should refuse to enforce unjust legislation This is sure to be controversial in an age in which critics already excoriate judges for excessive activism when conducting constitutional judicial review Edlin s challenge to conventional views is bold and compelling Brian Z Tamanaha Chief Judge Benjamin N Cardozo Professor of Law St John s University and author of Law as a Means to an End Threat to the Rule of Law Professor Edlin s fascinating and well researched distinction between constitutional review and common law review should influence substantially both scholarship on the history of judicial power in the United States and contemporary jurisprudential debates on the appropriate use of that power Mark Graber Professor of Law and Government University of Maryland and author of Dred Scott and the Problem of Constitutional Evil Is a judge legally obligated to enforce an unjust law In Judges and Unjust Laws Douglas E Edlin uses case law analysis legal theory constitutional history and political philosophy to examine the power of judicial review in the common law tradition He finds that common law tradition gives judges a dual mandate to apply the

law and to develop it There is no conflict between their official duty and their moral responsibility Consequently judges have the authority perhaps even the obligation to refuse to enforce laws that they determine unjust As Edlin demonstrates exploring the problems posed by unjust laws helps to illuminate the institutional role and responsibilities of common law judges Douglas E Edlin is Associate Professor of Political Science at Dickinson College

Implementing the Constitution Richard H. FALLON, Richard H Fallon, 2009-06-30 This book argues that the Supreme Court performs two functions The first is to identify the Constitution's idealized meaning The second is to develop tests and doctrines to realize that meaning in practice Bridging the gap between the two implementing the Constitution requires moral vision but also practical wisdom and common sense ingenuity and occasionally a willingness to make compromises In emphasizing the Court's responsibility to make practical judgments Implementing the Constitution takes issue with the two positions that have dominated recent debates about the Court's proper role Constitutional originalists maintain that the Court's essential function is to identify the original understanding of constitutional language and then apply it deductively to current problems This position is both unwise and unworkable the book argues It also critiques well known accounts according to which the Court is concerned almost exclusively with matters of moral and constitutional principle Implementing the Constitution bridges the worlds of constitutional theory political theory and constitutional practice It illuminates the Supreme Court's decision of actual cases and its development of well known doctrines It is a doctrinal study that yields jurisprudential insights and a contribution to constitutional theory that is closely tied to actual judicial practice

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The Reader's Digest DeWitt Wallace, Lila Bell Acheson Wallace, 1929

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Surpassing the Sovereign State David A. Rezvani, 2014-06-26 After nearly six centuries of emergence and world dominance the sovereign state now has a globally widespread competitor that frequently manages to surpass its capabilities in the areas of wealth security and self determination This book will show that in region after region throughout the world partially independent territories including Hong Kong Cayman Islands Kurdistan New Caledonia and others tend to be wealthier and more secure than their sovereign state counterparts Often ignored because of their small size lack of militaries and divided powers the partially independent territories that produce these advantages are responsible for nearly one fifth of global capital flows serve as solutions for some of the world's most intractable nationalistic disputes and furnish important capabilities for sovereign states The existence and capabilities of these polities contradict widely held assumptions of sovereign state pre eminence and give rise to a range of puzzling issues that will be addressed by this book Why do local nationalistically distinct populations accept partially independent unions What guarantees do these polities have that their powers will not be usurped by internal and external adversaries What makes core states which divide and share powers with partially independent territories willing to part with some of their sovereignty amidst fears that their countries will fully

fragment What are the prospects for the independence of Scotland Catalonia Puerto Rico and the nearly 50 partially independent territories around the globe This book explains how these polities emerge maintain themselves and sometimes come to an end

In Defense of the Text Leslie Friedman Goldstein, 1991 a must read for all students of constitutional law whatever their academic discipline this excellent book accomplishes the author's purpose it forces us to take textualism seriously

LEGAL STUDIES FORUM Perfecting the Constitution Darren Patrick Guerra, 2013-06-10 He who can change the Constitution controls the Constitution So who does control the Constitution The answer has always been the people The people control the Constitution via the Article V amending process outlined in the Constitution itself Changes can only be made through Article V and its formal procedures Article V has always provided a means of perfecting the Constitution in an explicit democratically authentic prudent and deliberative manner In addition to changing the Constitution Article V also allowed the people to perfect and preserve their Constitution at the same time In recent years Article V has come under attack by influential legal scholars who criticize it for being too difficult undemocratic and too formal Such scholars advocate for ignoring Article V in favor of elite adaptation of the Constitution or popular amendment through national referendums In making their case critics also assume that Article V is an unimportant and expendable part of the Constitutional structure One notable scholar called the Constitution imbecilic because of Article V This book shows that to the contrary Article V is a unique and powerful extension of the American tradition of written constitutionalism It was a logical extension of American constitutional development and it was a powerful tool used by the Federalists to argue for ratification of the new Constitution Since then it has served as a means of perfecting the US Constitution for over 200 years via a wide range of amendments Contrary to contemporary critics the historical evidence shows Article V to be a vital element in the Constitutional architecture not an expendable or ancillary piece This book defends Article V against critics by showing that it is neither too difficult undemocratic nor too formal Furthermore a positive case is made that Article V remains the most clear and powerful way to register the sovereign desires of the American public with regard to alterations of their fundamental law In the end Article V is an essential bulwark to maintaining a written Constitution that secures the rights of the people against both elites and themselves

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