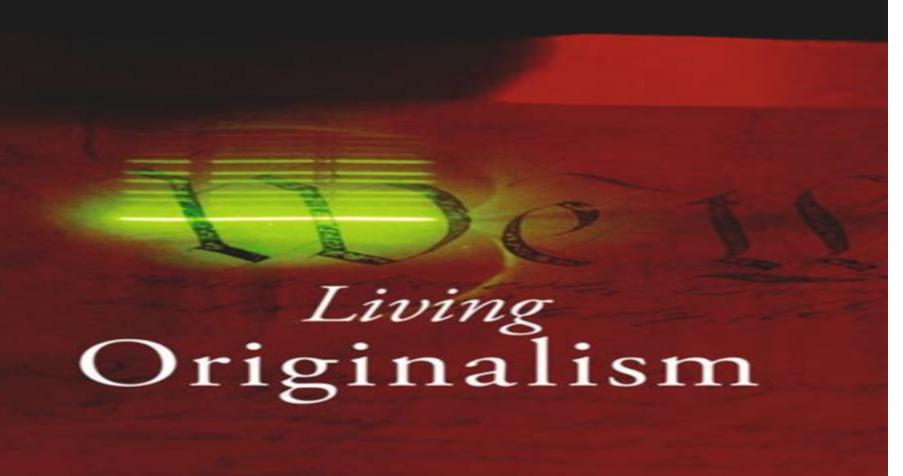
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Living Originalism Jack M. Balkin, 2011-11-29 Originalism and living constitutionalism often seen as opposing views are not in conflict So argues Jack Balkin a leading constitutional scholar in this long awaited book Step by step Balkin shows how both liberals and conservatives play important roles in constitutional construction and offers a way past the angry polemics Originalism in Theology and Law Mark J. Boone, Mark D. Eckel, 2024-01-26 In the study of American law originalism is primarily a theory about the meaning of the Constitution that its meaning can only change when its words change Originalism also appears in biblical theology as a theory on the meaning of the Bible that its meaning is that intended by the original authors Originalism in Theology and Law Comparing Perspectives on the Bible and the Constitution offers a study of originalism in both the Bible and the Constitution While there are significant connections between originalism as a theory of biblical interpretation and as Constitutional interpretation there are also differences in the type of text as well as its purpose function origins or authority which may affect which nuanced version of originalism best fits a particular text or the best method of interpreting it Symposium Boston University. School of Law, 2012 Originalism as Faith Eric J. Segall, 2018-10-18 Tracing the development of originalism Eric J Segall shows how judges often use the theory to reach politically desirable results 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 **Fidelity to Our Imperfect Constitution** James E. Fleming, 2015-07-17 Many conservative originalists contend that the only way to be faithful to the Constitution is to follow the relatively specific original meanings and expectations of the framers and ratifiers Fidelity to Our Imperfect Constitution vigorously rejects all varieties of originalism arguing instead for a moral reading that the quest for fidelity in interpreting the Constitution as written exhorts us to interpret it so as to make it the best it can be by honoring its commitments to abstract moral principles and ends A First Nations Voice in the Australian Constitution Shireen Morris, 2020-08-06 This book makes the legal and political case for Indigenous constitutional recognition through a constitutionally guaranteed First Nations voice as advocated by the historic Uluru Statement from the Heart It argues that a

constitutional amendment to empower Indigenous peoples with a fairer say in laws and policies made about them and their rights is both constitutionally congruent and politically achievable A First Nations voice is deeply in keeping with the culture design and philosophy of Australia's federal Constitution as well as the long history of Indigenous advocacy for greater empowerment and self determination in their affairs Morris explores the historical political theoretical and international contexts underpinning the contemporary debate before delving into the constitutional detail to craft a compelling case for Harvard Law Review: Volume 125, Number 8 - June 2012 Harvard Law Review, 2012-06-12 The June 2012 issue features the Harvard Law Review s annual and extensive DEVELOPMENTS IN THE LAW section this year s subject is Presidential Authority The issue also includes an article by Nicholas Stephanopoulos Spatial Diversity and a Book Review by Michael Dorf The Undead Constitution which explores originalism and constitutional interpretation in light of recent books by David Strauss and Jack Balkin The issue begins with a series of In Memoriam contributions celebrating Bernard Wolfman In its Developments survey on executive authority the authors analyze the subjects of The President's Role in the Legislative Process Presidential Power and the Office of Legal Counsel Presidential Involvement in Defending Congressional Statutes Executive Appointments In addition student contributions on Recent Cases explore such topics as patentable subject matter sentencing quidelines economic spying the death penalty and mental retardation Guant namo hearings and intelligence reports and organ donor compensation The issue includes Recent Publications and the Index for volume 125 The Harvard Law Review is offered in a digital edition featuring active Table of Contents linked footnotes and cross references legible tables and proper ebook formatting This current issue of the Review is June 2012 the eighth issue of academic year 2011 Law and Religion in a Secular Age Rafael Domingo, 2023-09-28 Essays discussing the relationship of 2012 Volume 125 national international and canon law to spirituality God and religion The second half of the book discusses the lives of Christians who have made significant contributions to jurisprudence in various spheres Alberico Gentili Robert Schuman scar Romero Pope John Paul II lvaro d Ors and John Witte Jr **Sovereignty Across Generations** Alessandro Ferrara, 2023 By taking new steps in updating and revisiting political liberalism this book reconstructs Rawls s implicit view of constituent power beyond the pages dedicated to it in Political Liberalism and brings that view into conversation with major constitutional theories of the twentieth century **Memory and Authority** Jack M. Balkin, 2024-02-27 From one of the nation's preeminent constitutional scholars a sweeping rethinking of the uses of history in constitutional interpretation Fights over history are at the heart of most important constitutional disputes in America The Supreme Court's current embrace of originalism is only the most recent example of how lawyers and judges try to use history to establish authority for their positions Jack M Balkin argues that fights over constitutional interpretation are often fights over collective memory Lawyers and judges construct and erase memory to lend authority to their present day views they make the past speak their values so they can then claim to follow it The seemingly opposed camps of originalism and living constitutionalism are

actually mirror images of a single phenomenon how lawyers use history to adapt an ancient constitution to a constantly changing world Balkin shows how lawyers and judges channel history through standard forms of legal argument that shape how they use history and even what they see in history He explains how lawyers and judges invoke history selectively to construct authority for their claims and undermine the authority of opposing views And he elucidates the perpetual quarrel between historians and lawyers showing how the two can best join issue in legal disputes This book is a sweeping rethinking of the uses of history in constitutional interpretation Law, Society and Community Richard Nobles, David Schiff.2016-04-22 This collection of socio legal studies written by leading theorists and researchers from around the world offers original perceptive and critical contributions to ideas and theories that have been expounded by Roger Cotterrell over a long and distinguished career Engaging with many classic issues and theories of the sociology of law the contributions are likely to become classics themselves as they tackle some of the most significant challenges that modern law faces They do not shy away from what one of the contributors describes as the complexity and multiplicity of our contemporary legal world The book is organized in three parts socio legal themes methodological and jurisprudential themes globalization cultural and comparative law themes Starting with a chapter that re engages with the need to interpret legal ideas sociologically and ending with one that explores the global significance of modern fascination with the idea of the rule of law this selection offers important additions to the oeuvre of Roger Cotterrell a list of whose academic writings is included in the book the People Jill Lepore, 2025-09-16 NEW YORK TIMES BESTSELLER Lepore s 15th book We the People a history of the U S Constitution may be her best yet a capacious work that lands at the right moment like a life buoy as our ship of state takes on water Hamilton Cain Los Angeles Times From the best selling author of These Truths comes We the People a stunning new history of the U S Constitution for a troubling new era The U S Constitution is among the oldest constitutions in the world but also one of the most difficult to amend Jill Lepore Harvard professor of history and law explains why in We the People the most original history of the Constitution in decades and an essential companion to her landmark history of the United States These Truths Published on the occasion of the 250th anniversary of the nation's founding the anniversary too of the first state constitutions. We the People offers a wholly new history of the Constitution One of the Constitution s founding purposes was to prevent change Lepore writes Another was to allow for change without violence Relying on the extraordinary database she has assembled at the Amendments Project Lepore recounts centuries of attempts mostly by ordinary Americans to realize the promise of the Constitution Yet nearly all those efforts have failed Although nearly twelve thousand amendments have been introduced in Congress since 1789 and thousands more have been proposed outside its doors only twenty seven have ever been ratified More troubling the Constitution has not been meaningfully amended since 1971 Without recourse to amendment she argues the risk of political violence rises So does the risk of constitutional change by presidential or judicial fiat Challenging both the Supreme Court's monopoly on constitutional interpretation and the flawed theory of originalism

Lepore contends in this gripping and unfamiliar story of our own past that the philosophy of amendment is foundational to American constitutionalism The framers never intended for the Constitution to be preserved like a butterfly under glass Lepore argues but expected that future generations would be forever tinkering with it hoping to mend America by amending its Constitution through an orderly deliberative and democratic process Lepore's remarkable history seeks too to rekindle a sense of constitutional possibility Congressman Jamie Raskin writes that Lepore has thrown us a lifeline a way of seeing the Constitution neither as an authoritarian straitjacket nor a foolproof magic amulet but as the arena of fierce logical passionate and often deadly struggle for a more perfect union At a time when the Constitution s vulnerability is all too evident and the risk of political violence all too real We the People with its shimmering prose and pioneering research hints at the prospects for a better constitutional future an amended America Canada in the World Richard Albert, David R. Cameron, 2017-11-02 In this volume marking the Sesquicentennial of Confederation in Canada leading scholars and jurists discuss the evolution of the Canadian Constitution since the British North America Act 1867 the role of the Supreme Court in interpreting the Constitution as a living tree capable of application to new legal issues and the growing influence of both the Constitution with its entrenched Charter of Rights and Freedoms and the decisions of the Court on other constitutional courts dealing with a wide range of issues pertaining to human rights and democratic government. The contributors assess how the Canadian Constitution accommodates the cultural diversity of the country's territories and peoples while ensuring the universal applicability of its provisions the role of the Court in interpreting and applying the Constitution and the growing global influence of the Constitution and decisions of the Court on legislatures and courts in other countries **High Crimes** and Misdemeanors Frank O. Bowman III, Frank O. Bowman, 2019-08-30 Explains impeachment from its English roots through 250 years of American constitutional experience including the case against President Trump The Living **Constitution** David A. Strauss, 2010-05-19 Supreme Court Justice Antonin Scalia once remarked that the theory of an evolving living Constitution effectively rendered the Constitution useless He wanted a dead Constitution he joked arguing it must be interpreted as the framers originally understood it In The Living Constitution leading constitutional scholar David Strauss forcefully argues against the claims of Scalia Clarence Thomas Robert Bork and other originalists explaining in clear jargon free English how the Constitution can sensibly evolve without falling into the anything goes flexibility caricatured by opponents The living Constitution is not an out of touch liberal theory Strauss further shows but a mainstream tradition of American jurisprudence a common law approach to the Constitution rooted in the written document but also based on precedent Each generation has contributed precedents that guide and confine judicial rulings yet allow us to meet the demands of today not force us to follow the commands of the long dead Founders Strauss explores how judicial decisions adapted the Constitution's text and contradicted original intent to produce some of our most profound accomplishments the end of racial segregation the expansion of women's rights and the freedom of speech By contrast originalism suffers from

fatal flaws the impossibility of truly divining original intent the difficulty of adapting eighteenth century understandings to the modern world and the pointlessness of chaining ourselves to decisions made centuries ago David Strauss is one of our leading authorities on Constitutional law one with practical knowledge as well having served as Assistant Solicitor General of the United States and argued eighteen cases before the United States Supreme Court Now he offers a profound new understanding of how the Constitution can remain vital to life in the twenty first century A Debt Against the Living Ilan Wurman, 2017-07-31 This book is an introduction to and defense of originalism and the Founding intended for a more general audience No similar book exists It is aimed at law students advanced college students policymakers and the politically interested reader seeking a general introduction to originalism and its implications for today The Missing American **Jury** Suja A. Thomas, 2016-06-16 This book explores why juries have declined in power and how the federal government and the states have taken the jury s authority Freedom and Indigenous Constitutionalism John Borrows, 2016-01-01 John Borrows uses Ojibwe law stories and principles to suggest alternative ways in which Indigenous peoples can work to enhance The Oxford Handbook of the Canadian Constitution Peter Oliver, Patrick Macklem, Nathalie Des freedom Rosiers, 2017-08-10 The Oxford Handbook of the Canadian Constitution provides an ideal first stop for Canadians and non Canadians seeking a clear concise and authoritative account of Canadian constitutional law The Handbook is divided into six parts Constitutional History Institutions and Constitutional Change Aboriginal Peoples and the Canadian Constitution Federalism Rights and Freedoms and Constitutional Theory Readers of this Handbook will discover some of the distinctive features of the Canadian constitution for example the importance of Indigenous peoples and legal systems the long standing presence of a French speaking population French civil law and Quebec the British constitutional heritage the choice of federalism as well as the newer features most notably the Canadian Charter of Rights and Freedoms Section Thirty Five regarding Aboriginal rights and treaties and the procedures for constitutional amendment The Handbook provides a remarkable resource for comparativists at a time when the Canadian constitution is a frequent topic of constitutional commentary The Handbook offers a vital account of constitutional challenges and opportunities at the time of the 150th anniversary of Confederation

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