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principle

LEGITIMATE LEGAL

ARGUMENT AND

CONSTITUTIONAL

INTERPRETATION

Richard S. Markovits

Keith E. Whittington, R. Daniel Kelemen, Gregory A. Caldeira

Matters of Principle Richard S. Markovits, 1998-07-01 The United States is generally believed to be a liberal rights based culture In such a society according to Richard S Markovits arguments of moral principle dominate legal discourse Markovits analyzes various rights related to our society s basic duties of showing appropriate equal respect for all creatures capable of moral integrity and appropriate equal concern for their actualizing this potential By taking moral and legal rights arguments seriously the book counters the tendencies of legal academics to substitute non right focused policy analysis for rights analysis and of judges to indulge their own political preferences under the guide of executing arcane morally disconnected legal analysis Ranging widely and covering in depth such flashpoint issues as educational rights minimum real income rights privacy rights abortion parenting sexual liberties and the right to die Matters of Principle is a deeply engaged and thoughtful work certain to be controversial and much debated The Supreme Court and the Attitudinal Model **Revisited** Jeffrey A. Segal, Harold J. Spaeth, 2002-09-16 This book authored by two leading scholars of the Supreme Court and its policy making systematically presents and validates the use of the attitudinal model to explain and predict Supreme Court decision making In the process it critiques the two major alternative models of Supreme Court decision making and their major variants the legal and rational choice Using the US Supreme Court Data Base the justices private papers and other sources of information the book analyzes the appointment process certiorari the decision on the merits opinion assignments and the formation of opinion coalitions. The book will be the definitive presentation of the attitudinal model as well as an authoritative critique of the legal and rational choice models The book thoroughly reflects research done since the 1993 publication of its predecessor as well as decisions and developments in the Supreme Court including the momentous decision of Bush v Gore The American Supreme Court Robert G. McCloskey, 2010-07-15 Celebrating its fiftieth anniversary Robert McCloskey's classic work on the Supreme Court's role in constructing the U.S. Constitution has introduced generations of students to the workings of our nation s highest court For this new fifth edition Sanford Levinson extends McCloskey's magisterial treatment to address the Court's most recent decisions As in prior editions McCloskey's original text remains unchanged In his historical interpretation he argues that the strength of the Court has always been its sensitivity to the changing political scene as well as its reluctance to stray too far from the main currents of public sentiments In two revised chapters Levinson shows how McCloskey's approach continues to illuminate developments since 2005 including the Court's decisions in cases arising out of the War on Terror which range from issues of civil liberty to tests of executive power He also discusses the Court's skepticism regarding campaign finance regulation its affirmation of the right to bear arms and the increasingly important nomination and confirmation process of Supreme Court justices including that of the first Hispanic justice Sonia Sotomayor The best and most concise account of the Supreme Court and its place in American politics McCloskey's wonderfully readable book is an essential guide to the past present and future prospects of

this institution **Legal Canons** Jack M Balkin, Sanford V Levinson, 2000-08-01 In this collection of enlightening essays legal scholars examine what is and what ought to be canonical in the study of law Every discipline has its canon the set of standard texts approaches examples and stories that form the lingua franca of its practitioners In Legal Canons some of today s finest legal minds seek to map out the legal canon and the way in which law is taught today In order to understand how the twin ideas of canons and canonicity operate in law each essay focuses on a particular aspect from contracts and constitutional law to guestions of race and gender The ascendance of law and economics feminism critical race theory and gay legal studies as well as the increasing influence of both rational actor methodology and postmodernism are all scrutinized by the leading scholars in the field A timely and comprehensive volume Legal Canons articulates the need for and means to opening the debate on canonicity in legal studies Economics and the Interpretation and Application of U.S. and E.U. Antitrust **Law** Richard S. Markovits, 2014-05-22 This volume 1 defines the specific anticompetitive intent lessening competition distorting competition and exploitative abuse tests of illegality promulgated by U S and or E U antitrust law 2 compares the efficiency defenses promulgated by U S and E U antitrust law 3 compares the conduct coverage of the various U S and E U antitrust laws 4 defines price competition and quality or variety increasing investment QV investment competition and explains why they should be analyzed separately 5 defines the components of individualized pricing and across the board pricing sellers price minus marginal cost gaps and analyses each s determinants 6 defines the determinants of the intensity of QV investment competition and explains how they determine that intensity 7 demonstrates that definitions of both classical and antitrust markets are inevitably arbitrary not just at their periphery but comprehensively 8 criticizes the various protocols for market definition recommended used by scholars the U S antitrust agencies the European Commission and U S and E U courts 9 explains that a firm s economic market power or dominance depends on its power over both price and QV investment and demonstrates that even if markets could be defined non arbitrarily a firm s economic power could not be predicted from its market share 10 articulates a definition of oligopolistic conduct that some economists have implicitly used conduct whose perpetrator perceived ex ante profitability depended critically on the perpetrator's belief that its rivals responses would be affected by their belief that it could react to their responses distinguishes two types of such conduct contrived and natural by whether it entails anticompetitive threats and or offers explains why this distinction is critical under U S but not E U antitrust law analyzes the profitability of each kind of oligopolistic conduct examines these analyses implications for each s antitrust legality and criticizes related U S and E U case law and doctrine and scholarly positions e g on the evidence that establishes the illegal oligopolistic character of pricing and 11 executes parallel analyses of predatory conduct e g criticizes various arguments for the inevitable unprofitability of predatory pricing the various tests that economists U S courts advocate using use to determine whether pricing is predatory and two analyses by economists of the conditions under which QV investment and systems rivalry are predatory and examines the conditions under which

production process research plant modernization and long term full requirements contracts are predatory Welfare **Economics and Antitrust Policy - Vol. I** Richard S. Markovits, 2021-10-18 This book is Volume I of a two volume set on antitrust policy analyzing the economic efficiency and moral desirability of various tests for antitrust legality including those promulgated by US and EU antitrust law The overall study consists of three parts Part I Chapters 1 8 introduces readers to the economic moral and legal concepts that play important roles in antitrust policy analysis Part II Chapters 9 16 analyzes the impacts of eight types of conduct covered by antitrust policy and various possible government responses to such conduct in terms of economic efficiency the securing of liberal moral rights and the instantiation of various utilitarian non utilitarian egalitarian and mixed conceptions of the moral good Part III Chapters 17 18 provides detailed information on US antitrust law and EU competition law and compares the extent to which when correctly interpreted and applied these two bodies of law could ensure economic efficiency protect liberal moral rights and instantiate various morally defensible conceptions of the moral good This first volume contains Part I and the first two chapters of Part II of the overall study the two chapters that focus on oligopolistic and predatory conduct of all kinds respectively. The book will appeal to undergraduate and graduate students of economics and law who are interested in welfare economics antitrust legality and the General Theory of the The Oxford Handbook of Law and Politics Keith E. Whittington, R. Daniel Kelemen, Gregory A. Second Best Caldeira, 2010-06-10 The Oxford Handbooks of Political Science are the essential guide to the state of political science today With engaging contributions from major international scholars The Oxford Handbook of Law and Politics provides the key point of reference for anyone working on the interception between law and political science Law, Society, and History Robert W. Gordon, Morton J. Horwitz, 2011-03-07 This book assembles essays on legal sociology and legal history by an international group of distinguished scholars All of them have been influenced by the eminent and prolific legal historian legal sociologist and scholar of comparative law Lawrence M Friedman Not just a Festschrift of essays by colleagues and disciples this volume presents a sustained examination and application of Friedman's ideas and methods Together the essays in this volume show the powerful ripple effects of Friedman's work on American and comparative legal sociology American and comparative legal history and the general sociology of law and legal change The Future of Gay Rights in America H.N. Hirsch, 2020-03-25 Sandra Day O Connor has called the gay rights movement the first important civil rights struggle of the twenty first century Recent court decisions to overturn sodomy laws and to recognize gay marriage have emboldened activists but have also resulted in a tremendous backlash not the least of which has been a call for a constitutional amendment defining marriage as only between members of the opposite sex Through its historical and legal contextualization of these decisions The Future of Gay Rights in America is essential for understanding an epochal moment in the history of gay rights What's Law Got to Do With It? Charles Gardner Geyh, 2011-08-09 Top US legal scholars and political scientists examine how the law shapes judges behavior and decisions and what it means for society at large Although there is

a growing consensus among legal scholars and political scientists significant points of divergence remain Contributors to What s Law Got to Do with It explore ways to reach greater accord on the complexity and nuance of judicial decision making and judicial elections while acknowledging that agreement on what judges do is not likely to occur any time soon As the first forum in which political scientists and legal scholars engage with one another on these hot button issues this volume strives to establish a true interdisciplinary conversation The inclusion of reactions from practicing judges puts into high relief the deep seated and opposing beliefs about the roles of law and politics in judicial work Praise for What s Law Got to Do with It Geyh associate dean for research and John F Kimberling professor of law Indiana Univ School of Law is well qualified to edit this reader about the interaction of law and politics in contemporary society The contributors are among the very best scholars in the legal and political science realm The writing is lively and easy to follow for the somewhat sophisticated reader Highly recommended Choice Readers will find these essays fascinating thoughtful and sometimes infuriating as conventional disciplinary wisdom is defended modified and refuted The result is a terrific text for all students of the legal process Mark A Graber University of Maryland This volume pulls together an excellent cast to examine one of the most intriguing and most difficult questions in the study of law and politics today what role does law play in the job of judging There is a lot to learn in these pages and this book does a fine job of pushing the conversation forward Keith Whittington Princeton University

Friends of the Supreme Court: Interest Groups and Judicial Decision Making Paul M. Collins, Jr.,2008-08-15 The U S Supreme Court is a public policy battleground in which organized interests attempt to etch their economic legal and political preferences into law through the filing of amicus curiae friend of the court briefs In Friends of the Supreme Court Interest Groups and Judicial Decision Making Paul M Collins Jr explores how organized interests influence the justices decision making including how the justices vote and whether they choose to author concurrences and dissents Collins presents theories of judicial choice derived from disciplines as diverse as law marketing political science and social psychology This theoretically rich and empirically rigorous treatment of decision making on the nation s highest court which represents the most comprehensive examination ever undertaken of the influence of U S Supreme Court amicus briefs provides clear evidence that interest groups play a significant role in shaping the justices choices On Interpretation Andrew D. Weiner, Leonard V. Kaplan, 2002 This title looks at past post structuralist theory to re examine methods of textual interpretation developed in past millennia to understand sacred philosophical cultural legal literary and artistic texts

Wittgenstein and Law Dennis Michael Patterson,2004 The papers collected in this volume reflect a focus on the continuing relevance and importance of Wittgenstein's work for philosophy in general and legal theory in particular *A Constitutionalist Approach to the European Convention on Human Rights* Lisa Sonnleitner,2022-04-21 This book presents a new constitutional argument for the legitimacy of evolutive interpretation of the ECHR It constructs a model in which evolutive and static constitutional principles are balanced with each other The author argues that there are three possible

interpretive approaches in time sensitive interpretations of the ECHR but that only one of them is justifiable by reference to the constitutional principles of the ECHR in every single case The ECHR s constitutional principles either require an evolutive or static interpretation or they do not establish a preference relation at all which leads to a margin of appreciation of the member states in the interpretation of the Convention The balancing model requires the determination of the weights of the competing evolutive and static constitutional principles For this purpose the author defines weighting factors for determining the importance of evolutive or static interpretation in a concrete case The Cambridge Handbook of **Deliberative Constitutionalism** Ron Levy, Hoi Kong, Graeme Orr, Jeff King, 2018-04-19 Deliberative democratic theory emphasises the importance of informed and reflective discussion and persuasion in political decision making The theory has important implications for constitutionalism and vice versa as constitutional laws increasingly shape and constrain political decisions The full range of these implications has not been explored in the political and constitutional literatures to date This unique Handbook establishes the parameters of the field of deliberative constitutionalism which bridges deliberative democracy with constitutional theory and practice Drawing on contributions from world leading authors this volume will serve as the international reference point on deliberation as a foundational value in constitutional law and will be an indispensable resource for scholars students and practitioners interested in the vital and complex links between democratic deliberation and constitutionalism Legitimate expectations in Luxembourg tax law Fatima Chaouche, 2019-06-25 This book is the result of a 4 year research project conducted at the Faculty of Law of the University of Luxembourg It explores the legal value and enforceability of tax circulars and tax rulings in Luxembourg domestic law in light of the principle of legitimate expectations and related principles After studying the historical roots of both interpretative acts this research questions the level of protection taxpayers enjoy when relying on circulars and tax rulings and contains a review of decades of administrative case law to assess the judicial discourse on taxpayers rights to certainty This book further investigates the case of circulars and tax rulings that contain interpretations of tax laws that are contrary to the law contra legem and builds upon the existing normative framework to introduce proposals addressing issues of uncertainty and inequality taxpayers are likely to suffer when relying on such interpretative acts Prix Pierre Pescatore de la Facult de Droit de Luxembourg cole Michigan Law Review ,2006-05 **Constitutional Argument and Institutional Structure in the** doctorale de droit United States Nicholas Papaspyrou, 2018-03-22 US constitutional jurisprudence often conflates two distinct enquiries how to interpret the Constitution and how to allocate interpretive authority This book explains the distinct role of judgements about interpretive authority in constitutional practice It argues that these judgements do not determine what qualifies as good constitutional argument and cannot substitute for it Rather they specify the division of labour between the political branches and the judiciary in forming applicable constitutional determinations. This explanation of the structure of constitutional reasoning sets the stage for the development of a normative theory about each enquiry The book advances a

theory of substantive constitutional argument It argues that constitutional interpretation is a special kind of practical reasoning aiming to construct and specify morally sound accounts of the Constitution and surrounding constitutional practice Yet this task is entrusted to a scheme of institutions as agents of free and equal citizens. The standard of review is an interlocking component of that scheme regulating the judicial assignment As such it should aim to facilitate best performance of the overall interpretive task so that the judicial process settles on appropriate constitutional determinations grounded on morally sound reasons that reach all citizens and uphold the fundamental commitments to freedom and equal citizenship

Living Originalism Jack M. Balkin, 2014-09-01 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 of our era *Research Handbook on Legal Pluralism and EU Law* Gareth Davies, Matej Avbelj, The Research Handbook on Legal Pluralism and EU Law explores the diversity of phenomenon of overlapping legal systems within the European Union the nature of their interactions and how they deal with the difficult question of the legal hierarchy between them The contributors reflect on the history sociology and legal scholarship on constitutional and legal pluralism and develop this further in the light of the challenges currently facing the EU

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