

The Supreme Court and Constitutional Interpretation

WE, the People of the United States, in order to form
a more perfect union, establish justice, insure domestic tranquility, provide
for the common defense, promote the general welfare, and secure the blessings
of Liberty to ourselves and our posterity, do ordain and establish this Constitution for the
United States of America.

ARTICLE I

Section 1. ALL legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Section 2. The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature.

No person shall be a Representative who shall not have attained to the age of twenty-five years, and seven years shall be a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of Representatives shall not exceed one for every thirty thousand, but each State shall have at least one Representative; and until such enumeration shall be made, the State of New-Hampshire shall be entitled to three Representatives, Massachusetts eight, Rhode-Island and Providence Plantations one, Connecticut five, New-York six, New-Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina three, and Georgia three.

When vacancies happen in the representation from any State, the Executive authority thereof shall issue writs of election to fill such vacancies.

The House of Representatives shall choose their Speaker and other officers; and shall have the sole power of impeachment.

Section 3. The Senate of the United States shall be composed of two Senators from each State, chosen by the legislature thereof, for six years; and each Senator shall have one vote.

Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The term of the Senators of the first class shall be six years, of the second class at the expiration of the second year, of the third class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one-third may be chosen every second year; and if vacancies happen by resignation, or otherwise, during the recess of the Legislature of any State, the Executive thereof may make temporary appointments until the next meeting of the Legislature, which shall then fill such vacancies.

No person shall be a Senator who shall not have attained to the age of thirty years, and seven years shall be a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

The Vice-President of the United States shall be President of the Senate, but shall have no vote, unless they be equally divided.

The Senate shall choose their other officers, and also a President pro tempore, in the absence of the Vice-President, or when he shall exercise the office of President of the United States.

The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the Chief Justice shall preside: And no person shall be convicted without the concurrence of two-thirds of the members present.



Shan Sivalingam

UW Law School – Street Law

May 2007

Constitutional Interpretation Constitutional Interpretation

Susan J Brison



Constitutional Interpretation Constitutional Interpretation:

Constitutional Interpretation Keith E. Whittington, 1999 With its detailed and wide ranging explorations in history philosophy and law this book is essential reading for anyone interested in how the Constitution ought to be interpreted and what it means to live under a constitutional government **BOOK JACKET** Constitutional Interpretation Sotirios A. Barber, James E. Fleming, 2007-06-27 Ronald Dworkin famously argued that fidelity in interpreting the Constitution as written calls for a fusion of constitutional law and moral philosophy Barber and Fleming take up that call arguing for a philosophic approach to constitutional interpretation In doing so they systematically critique the competing approaches textualism consensualism originalism structuralism doctrinalism minimalism and pragmatism that aim and claim to avoid a philosophic approach **Constitutional Interpretation The Basic Questions** illustrates that these approaches cannot avoid philosophic reflection and choice in interpreting the Constitution Barber and Fleming contend that fidelity in constitutional interpretation requires a fusion of philosophic and other approaches properly understood Within such a fusion interpreters would begin to think of text consensus intentions structures and doctrines not as alternatives to but as sites of philosophic reflection about the best understanding of our constitutional commitments **Constitutional Interpretation The Basic Questions** examines the fundamental inquiries that arise in interpreting constitutional law In doing so the authors survey the controversial and intriguing questions that have stirred constitutional debate in the United States for over two centuries such as how and for what ends should governmental institutions and powers be arranged what does the Constitution mean under general circumstances and how should it be interpreted during concrete controversies and finally how do we decide what our constitution means and who ultimately decides its meaning *Two Studies in Constitutional Interpretation* Telford Taylor, 1969 **Modes of Constitutional Interpretation** Craig R. Ducat, 1978 **Contemporary Perspectives On Constitutional Interpretation** Susan J Brison, 2018-03-08 Current controversies over abortion affirmative action school prayer hate speech and other issues have sparked considerable public debate about how the U S Constitution should be interpreted Such controversies along with the changing composition of an often deeply divided Supreme Court have led to a resurgence of interest in theories of constitutional interpretation This anthology edited by Susan J Brison and Walter Sinnott Armstrong presents some of the most exciting and influential contemporary work in this area Written by ten of the country s most prominent legal scholars the selections represent a wide variety of interpretive approaches reflecting different political orientations from the far right to the far left These theorists have drawn on a variety of other disciplines including literature economics history philosophy and politics and have in turn influenced these fields The selections were chosen for their accessibility originality variety and importance Together they provide an excellent introduction to constitutional interpretation as well as a valuable collection for experienced scholars in the field *Constitutional Interpretation* Jeffrey M. Shaman, **Interpreting the Constitution** Kent Greenawalt, 2015-11-04 This book uniquely presents a sophisticated

account of possible approaches to constitutional interpretation and also examines how major provisions in the U S Constitution are and should be interpreted Together the chapters show why simple straightforward approaches such as textual originalism are insupportable and why even providing a more complex but systematic account of what judges should do is impossible

Selected Theories of Constitutional Interpretation , *How to Read the Constitution* Christopher Wolfe, 1996 Prominent constitutional scholar Christopher Wolfe challenges popular opinions by presenting an insightful and well supported defense of originalist interpretations of the Constitution He describes the traditional approach to constitutional interpretation and judicial review and then focuses his analysis on the due process clause which has become the source of most modern constitutional law Wolfe challenges the most influential defenders of judicial activism including Laurence Tribe Michael Dorf Harry Wellington and Mark Tushnet and he persuasively explains the dire political consequences of taking the Constitution out of constitutional law

The Challenge of Originalism Grant Huscroft, Bradley W. Miller, 2011-09-12 Originalism is a force to be reckoned with in constitutional interpretation At one time a monolithic theory of constitutional interpretation contemporary originalism has developed into a sophisticated family of theories about how to interpret and reason with a constitution Contemporary originalists harness the resources of linguistic moral and political philosophy to propose methodologies for the interpretation of constitutional texts and provide reasons for fidelity to those texts The essays in this volume which includes contributions from the flag bearers of several competing schools of constitutional interpretation provides an introduction to the development of originalist thought showcases the great range of contemporary originalist constitutional scholarship and situates competing schools of thought in dialogue with each other They also make new contributions to the methodological and normative disputes between originalists and non originalists and among originalists themselves

Populist Challenges to Constitutional Interpretation in Europe and Beyond Fruzsina Gárdos-Orosz, Zoltán Szente, 2021-05-03 This book explores the relationship between populism or populist regimes and constitutional interpretation used in those regimes The volume discusses the question of whether contemporary populist governments and movements have developed or encouraged new and specific constitutional theories doctrines and methods of interpretation or whether their constitutional and other high courts continue to use the old traditional interpretative tools in constitutional adjudication The book is divided into four parts Part I contains three chapters elaborating the theoretical basis for the discussion Part II examines the topic from a comparative perspective representing those European countries where populism is most prevalent including Austria Croatia the Czech Republic Greece Hungary Italy Poland Romania Spain and the United Kingdom Part III extends the focus to the United States reflecting how American jurisprudence and academia have produced the most important contributions to the theory of constitutional interpretation and how recent political developments in that country might challenge the traditional understanding of judicial review This section also includes a general overview on Latin America where there are also some populist governments and strong populist movements Finally

the editors closing study analyses the outcomes of the comparative research summarizing the conclusions of the book Written by renowned national constitutional scholars the book will be essential reading for students academics and researchers working in Constitutional Law and Politics Chapter 1 of this book is freely available as a downloadable Open Access PDF at <http://www.taylorfrancis.com> under a Creative Commons Attribution Non Commercial No Derivatives CC BY NC ND 4.0 license

Constitutional Interpretation in Singapore Jaclyn L Neo, 2016-06-17 At the heart of constitutional interpretation is the struggle between on the one hand fidelity to founding meanings and on the other hand creative interpretation to suit the context and needs of an evolving society This book considers the recent growth of constitutional cases in Singapore in the last ten years It examines the underpinnings of Singapore's constitutional system explores how Singapore courts have dealt with issues related to rights and power and sets developments in Singapore in the wider context of new thinking and constitutional developments worldwide It argues that Singapore is witnessing a shift in legal and political culture as both judges and citizens display an increasing willingness to engage with constitutional ideas and norms

Constitutional Interpretation Craig R. Ducat, 1983 One of the best known most comprehensive and widely read Constitutional Law textbooks published CONSTITUTIONAL INTERPRETATION is consistently updated to reflect current issues and cases relevant to students Offering a good balance between textual explanation and edited Court cases written in clear concise language the text remains the standard text for students and instructors alike

American Constitutional Interpretation Walter F. Murphy, 2008 This undergraduate text uses original essays cases and materials to study the very enterprise by which a constitution is interpreted and a constitutional government created It explores the American polity as both a constitutional and democratic entity This volume is organized around a set of basic interrogatives What is the constitution that is to be interpreted Who are its authoritative interpreters How do they go about their interpretive tasks

Contemporary Perspectives On Constitutional Interpretation Susan J Brison, 2018-03-08 Current controversies over abortion affirmative action school prayer hate speech and other issues have sparked considerable public debate about how the U S Constitution should be interpreted Such controversies along with the changing composition of an often deeply divided Supreme Court have led to a resurgence of interest in theories of constitutional interpretation This anthology edited by Susan J Brison and Walter Sinnott Armstrong presents some of the most exciting and influential contemporary work in this area Written by ten of the country's most prominent legal scholars the selections represent a wide variety of interpretive approaches reflecting different political orientations from the far right to the far left These theorists have drawn on a variety of other disciplines including literature economics history philosophy and politics and have in turn influenced these fields The selections were chosen for their accessibility originality variety and importance Together they provide an excellent introduction to constitutional interpretation as well as a valuable collection for experienced scholars in the field

Methods of Interpretation Lackland H. Bloom (Jr.), 2009 Methods of Interpretation How the Supreme Court Reads the Constitution

examines the various methodologies the Supreme Court and individual justices have employed throughout history when interpreting the United States Constitution Rather than attempting to set forth an overall theory of constitutional interpretation or plunge into the never ending scholarly debate over interpretative theory Lackland H Bloom Jr focuses exclusively on what the Court and individual justices have done and said about constitutional interpretation in the course of deciding constitutional cases He identifies many of the best and a few of the worst examples of particular interpretative methodologies as well as the best examples of explicit discussions of constitutional interpretation by the Court and individual justices Professor Bloom pays particular focus on the Supreme Court s approaches to constitutional interpretation since it is the Court that sets the standards Although commentators may have the final word on what constitutional interpretation should be he argues that the Court essentially has the final word on what it actually is Vagaries and Varieties in Constitutional Interpretation Thomas Reed Powell,2002 Powell Thomas Reed Vagaries and Varieties in Constitutional Interpretation New York Columbia University Press 1956 xv 229 pp Reprinted 2002 by The Lawbook Exchange Ltd ISBN 1 58477 210 7 Cloth 70 With a Foreword by Paul A Freund Published versions of the James S Carpentier lectures delivered by Powell 1880 1955 at Columbia University in 1955 Its chapters include Establishment of Judicial Review Professions and Practices in Judicial Review National Power Federalism Intergovernmental Relations Federalism State Powers Affecting the National Economy State Police Power and Federalism State Powers Affecting the National Economy State Taxing Power

Originalism and Judicial Discretion. A Critical Analysis of Constitutional Interpretation in the United States

Isabelle Bayreuther,2025-11-06 Essay from the year 2024 in the subject Law Public Law Constitutional Law Basic Rights grade 16 Universit Paris 1 Panth on Sorbonne course Common Law language English abstract This paper critically examines Originalism as a method of constitutional interpretation in U S jurisprudence It questions the claim that Originalism uniquely restrains judges from imposing their personal or political preferences when interpreting the Constitution The analysis contrasts Originalism with competing approaches such as Legal Realism and Living Constitutionalism both of which emphasize the dynamic interaction between law society and judicial experience The study traces the historical development from Intentionalism to Textualism and highlights the practical difficulties in determining the original meaning of constitutional provisions Drawing on landmark Supreme Court cases including Texas v Johnson 1989 and District of Columbia v Heller 2008 the paper demonstrates that even prominent Originalist judges such as Antonin Scalia have occasionally departed from strict Originalist reasoning revealing inherent inconsistencies within the doctrine

Constitutional Dialogues Louis Fisher,2014-07-14 Who makes constitutional law Is constitutional doctrine the monopoly of the courts In accessible and persuasive prose Louis Fisher explains that constitutional law is not solely or even primarily the Supreme Court s final word but rather a richly political convergence of separate interpretations With a broad range of examples he argues that constitutional principles emerge from a dialogue among all three branches of government executive

legislative and judicial Important contributions also come from the states and the general public Fisher identifies executive and legislative initiatives in many areas of constitutional significance Where there is litigation the Court generally upholds these initiatives or may avoid making a constitutional decision by using threshold devices On those rare occasions when the Supreme Court exercises judicial review and strikes down a presidential or congressional action it is usually only a matter of time before the proposal is revived and the dialogue begins again Originally published in 1988 The Princeton Legacy Library uses the latest print on demand technology to again make available previously out of print books from the distinguished backlist of Princeton University Press These editions preserve the original texts of these important books while presenting them in durable paperback and hardcover editions The goal of the Princeton Legacy Library is to vastly increase access to the rich scholarly heritage found in the thousands of books published by Princeton University Press since its founding in 1905

Original Meaning Jurisprudence United States. Department of Justice. Office of Legal Policy, 1988

The book delves into Constitutional Interpretation Constitutional Interpretation. Constitutional Interpretation Constitutional Interpretation is a crucial topic that needs to be grasped by everyone, from students and scholars to the general public. The book will furnish comprehensive and in-depth insights into Constitutional Interpretation Constitutional Interpretation, encompassing both the fundamentals and more intricate discussions.

1. This book is structured into several chapters, namely:
 - Chapter 1: Introduction to Constitutional Interpretation Constitutional Interpretation
 - Chapter 2: Essential Elements of Constitutional Interpretation Constitutional Interpretation
 - Chapter 3: Constitutional Interpretation Constitutional Interpretation in Everyday Life
 - Chapter 4: Constitutional Interpretation Constitutional Interpretation in Specific Contexts
 - Chapter 5: Conclusion
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 4. In chapter 3, this book will examine the practical applications of Constitutional Interpretation Constitutional Interpretation in daily life. This chapter will showcase real-world examples of how Constitutional Interpretation Constitutional Interpretation can be effectively utilized in everyday scenarios.
 5. In chapter 4, the author will scrutinize the relevance of Constitutional Interpretation Constitutional Interpretation in specific contexts. The fourth chapter will explore how Constitutional Interpretation Constitutional Interpretation is applied in specialized fields, such as education, business, and technology.
 6. In chapter 5, this book will draw a conclusion about Constitutional Interpretation Constitutional Interpretation. The final chapter will summarize the key points that have been discussed throughout the book.
- This book is crafted in an easy-to-understand language and is complemented by engaging illustrations. This book is highly recommended for anyone seeking to gain a comprehensive understanding of Constitutional Interpretation Constitutional Interpretation.

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