

INTERPRETING THE CONSTITUTION

KENT GREENAWALT

Nice Book Interpreting Constitution Kent Greenawalt

Kent Greenawalt



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Interpreting the Constitution Kent Greenawalt, 2015 This title addresses various approaches to interpreting a constitution It is the third and final volume on legal interpretation following *Legal Interpretation Perspectives from Other Disciplines* and *Private Texts and Statutory and Common Law Interpretation* The overall theme is that techniques of constitutional interpretation are multiple and far from simple They are not reducible to any standard priority or even any non vague written or verbal systematic account A great deal depends on the context most notably the nature of the constitutional provision being interpreted *Realms of Legal Interpretation* Kent Greenawalt, 2018-07-06 In *Realms of Legal Interpretation* Kent Greenawalt focuses on how courts decide what is legally forbidden or authorized and how context shapes their decisions The problem he argues is that we do not and never have agreed exist on all the details of the standards United States judges should employ like everyone else judges have different ideas of what constitutes good common sense

Interpreting the Constitution Kent Greenawalt, 2015 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 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

Harvard Law Review: Volume 129, Number 5 - March 2016 Harvard Law Review, 2016-03-09 The March 2016 issue No 5 features these contents Article Marriage Equality and the New Parenthood by Douglas NeJaime Essay Horizontal Shareholding by Einer Elhauge Book Review Keeping Track Surveillance Control and the Expansion of the Carceral State by Kathryn M Young and Joan Petersilia Note Constitutional Courts and International Law Revisiting the Transatlantic Divide Note Defining the Press Exemption from Campaign Finance Restrictions Note Let the End Be Legitimate Questioning the Value of Heightened Scrutiny s Compelling and Important Interest Inquiries In addition student commentary analyzes Recent Cases on state abortion laws and precedent expectation of privacy in pocket dial tax deductions for medical marijuana dispensary appointments clause test for executive branch reassignments takings by residential inclusionary zoning and statutory interpretation using corpus linguistics A commentary focuses on the Recent Court Filing by the DOJ arguing that a city ordinance prohibiting camping and sleeping outdoors violates the Eighth Amendment Finally the issue includes two brief comments on Recent Publications The Harvard Law Review is offered in a quality digital edition featuring active Contents linked footnotes active URLs legible tables and proper ebook and Bluebook formatting The Review is a student run organization whose primary purpose is to publish a journal of legal scholarship It comes out monthly from November through

June and has roughly 2500 pages per volume Student editors make all editorial and organizational decisions This is the fifth issue of academic year 2015 2016

The Free Exercise of Religion in America Ellis M. West, 2019-02-05 This book explains the original meaning of the two religion clauses of the First Amendment Congress shall make no law 1 respecting an establishment of religion or 2 prohibiting the free exercise thereof As the book shows both clauses were intended to protect the free exercise of religion or religious freedom West shows the position taken by early Americans on four issues 1 the general meaning of the free exercise of religion including whether it is different from the meaning of no establishment of religion 2 whether the free exercise of religion may be intentionally and directly limited and if so under what circumstances 3 whether laws regulating temporal matters that also have a religious sanction violate the free exercise of religion and 4 whether the free exercise of religion gives persons a right to be exempt from obeying valid civil laws that unintentionally and indirectly make it difficult or impossible to practice their religion in some way A definitive work on the subject and a major contribution to the field of constitutional law and history this volume is key to a better understanding of the ongoing constitutional adjudication based on the religion clauses of the First Amendment

Religion and the Constitution Kent Greenawalt, 2006 Publisher Description

The Rise of Corporate Religious Liberty Micah Jacob Schwartzman, Chad Flanders, Zoë Robinson, 2016 What are the rights of religious institutions Should those rights extend to for profit corporations Houses of worship have claimed they should be free from anti discrimination laws in hiring and firing ministers and other employees Faith based institutions including hospitals and universities have sought exemptions from requirements to provide contraception Now in a surprising development large for profit corporations have succeeded in asserting rights to religious free exercise The Rise of Corporate Religious Liberty explores this corporate turn in law and religion Drawing on a broad range perspectives this book examines the idea of freedom of the church the rights of for profit corporations and the implications of the Supreme Court s landmark decision in *Burwell v Hobby Lobby* for debates on anti discrimination law same sex marriage health care and religious freedom

The Intelligible Constitution Joseph Goldstein, 1992 In *Webster v Reproductive Health Services* a critical abortion rights case a bitterly divided Supreme Court produced no less than six different opinions Writing for the plurality Chief Justice Rehnquist attacked the trimester framework established in *Roe v Wade* because it was not found in the text of the Constitution or in any place else one would expect to find a constitutional principle This approach writes legal authority Joseph Goldstein confuses constitutional principles in this case the right to privacy with the means to protect them here the trimester system As a result the Court left the public bewildered about the constitutional scope of a woman s right to reproductive choice failing in its duty to speak clearly to the American public about the Constitution In *The Intelligible Constitution* Goldstein makes a compelling argument that in a democracy based upon informed consent the Supreme Court has an obligation to communicate clearly and candidly to We the People when it interprets the Constitution After a fascinating discussion of the language of the Constitution and Supreme Court opinions

including the analysis of Webster he presents a series of opinion studies in important cases focusing not on ideology but on the Justices clarity of thought and expression Using the two Brown v Board of Education cases Cooper v Aaron Regents of the University of California v Bakke and others as his examples Goldstein demonstrates the pitfalls to which the Court has succumbed in the past Writing deliberately ambiguous decisions to win the votes of colleagues challenging each others opinions in private but not in public and not speaking honestly when the writer knows a concurring Justice misunderstands the opinion which he or she is supporting Even some landmark decisions he writes have featured seriously flawed opinions preventing We the People from understanding why the Justices reasoned as they did and why they disagreed with each other He goes on to suggest five canons of comprehensibility for Supreme Court opinions to ensure that the Justices explain themselves clearly honestly and unambiguously so that all the various opinions in each case would constitute a comprehensible message about their accord and discord in interpreting the Constitution Both a fascinating look at how the Court shapes its opinions and a clarion call to action this book provides an important addition to our understanding of how to maintain the Constitution as a living document by and for the People in its third century 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 **Religion and the Constitution, Volume 1** Kent

Greenawalt, 2009-01-10 Balancing respect for religious conviction and the values of liberal democracy is a daunting challenge for judges and lawmakers particularly when religious groups seek exemption from laws that govern others Should members of religious sects be able to use peyote in worship Should pacifists be forced to take part in military service when there is a draft and should this depend on whether they are religious How can the law address the refusal of parents to provide medical care to their children or the refusal of doctors to perform abortions Religion and the Constitution presents a new framework for addressing these and other controversial questions that involve competing demands of fairness liberty and constitutional validity In the first of two major volumes on the intersection of constitutional and religious issues in the United States Kent Greenawalt focuses on one of the Constitution s main clauses concerning religion the Free Exercise Clause Beginning with a brief account of the clause s origin and a short history of the Supreme Court s leading decisions about freedom of religion he

devotes a chapter to each of the main controversies encountered by judges and lawmakers Sensitive to each case s context in judging whether special treatment of religious claims is justified Greenawalt argues that the state s treatment of religion cannot be reduced to a single formula Calling throughout for religion to be taken more seriously as a force for meaning in people s lives Religion and the Constitution aims to accommodate the maximum expression of religious conviction that is consistent with a commitment to fairness and the public welfare **Whose God Rules?** N. Walker,E. Greenlee,2011-12-14 This book demonstrates that the United States whether we like it or not is a theolegal nation a democracy that simultaneously guarantees citizens the right to free expression of belief while preventing the establishment of a state religion

Statutory and Common Law Interpretation Kent Greenawalt,2013 Kent Greenawalt s second volume on aspects of legal interpretation analyzes statutory and common law interpretation suggesting that multiple factors are important for each and that the relation between them influences both The book argues against any simple textualism claiming that even reader understanding of statutes depends partly on perceived intent In respect to common law interpretation use of reasoning by analogy is defended and any simple dichotomy of holding and dictum is resisted **Legal Protections of Privacy** Kent Greenawalt,1976 **Free Speech and Human Dignity** Steven J. Heyman,2008-01-01 Debates over hate speech

pornography and other sorts of controversial speech raise issues that go to the core of the First Amendment Supporters of regulation argue that these forms of expression cause serious injury to individuals and groups assaultin **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 *The American Legal System* Albert P. Melone, Allan Karnes, 2008 Firmly anchored in social science concepts the second edition of *The American Legal System* demonstrates the relationships among private law the business legal environment and public law issues as well as related subjects of interest This fifteen chapter book is divided into three parts Part I places the legal system in a political perspective centering on the origins of the law schools of jurisprudence branches and functions of law legitimacy of law how the judiciary functions in the federal system of government and judicial interpretation and decision making Part II contrasts legal processes civil suits for money damages criminal processes equity justice administrative processes and alternative dispute resolution Part III centers on the legal norms or rules governing both civil and criminal conduct property law family law contract law and government regulation of business Throughout the text features edited court opinions many new to this edition illustrating lively and thought provoking controversies that are certain to spark student interest Among the many compelling issues addressed are the legal and constitutional controversies surrounding the Bush Administration s War on Terror and the socially explosive developments concerning same sex marriage In addition each chapter includes at least three comparative notes showing how other legal cultures in different nation states treat legal matters A wealth of pedagogical features chapter opening objectives key terms names and concepts a glossary discussion questions and appendices are included to aid student comprehension The authors have prepared an Instructor s Manual and Test Bank to facilitate the book s use in the classroom

Religion and the Constitution, Volume 2 Kent Greenawalt, 2008-05-19
Balancing respect for religious conviction and the values of liberal democracy is a daunting challenge for judges and lawmakers particularly when religious groups seek exemption from laws that govern others Should students in public schools be allowed to organize devotional Bible readings and prayers on school property Does reciting under God in the Pledge of Allegiance establish a preferred religion What does the Constitution have to say about displays of religious symbols and messages on public property Religion and the Constitution presents a new framework for addressing these and other controversial questions that involve competing demands of fairness liberty and constitutional validity In this second of two major volumes on the intersection of constitutional and religious issues in the United States Kent Greenawalt focuses on the Constitution s Establishment Clause which forbids government from favoring one religion over another or religion over secularism The author begins with a history of the clause its underlying principles and the Supreme Court s main decisions on establishment and proceeds to consider specific controversies Taking a contextual approach Greenawalt argues that the state s treatment of religion cannot be reduced to a single formula Calling throughout for acknowledgment of the way religion gives meaning to people s lives Religion and the Constitution aims to accommodate the maximum expression of religious conviction that is consistent with a commitment to fairness and the public welfare The Rule of Recognition and the U.S. Constitution Matthew Adler, Kenneth Einar Himma, 2009-07-20 The Rule of Recognition and the U S Constitution is a

volume of original essays that discuss the applicability of Hart's rule of recognition model of a legal system to U.S. constitutional law. The contributors are leading scholars in analytical jurisprudence and constitutional theory including Matthew Adler, Larry Alexander, Mitchell Berman, Michael Dorf, Kent Greenawalt, Richard Fallon, Michael Green, Kenneth Einar Himma, Stephen Perry, Frederick Schauer, Scott Shapiro, Jeremy Waldron, and Wil Waluchow. The volume makes a contribution both in jurisprudence using the U.S. as a test case that highlights the strengths and limitations of the rule of recognition model and in constitutional theory by showing how the model can illuminate topics such as the role of the Supreme Court, the constitutional status of precedent, the legitimacy of unwritten sources of constitutional law, the choice of methods for interpreting the text of the Constitution, and popular constitutionalism.

Free Exercise of Religion and the United States Constitution Mark P. Strasser, 2018-02-28

The United States is extremely diverse religiously and not infrequently individuals sincerely contend that they are unable to act in accord with law as a matter of conscience. The First Amendment to the United States Constitution protects the free exercise of religion and the United States Supreme Court has issued many decisions exploring the depth and breadth of those protections. This book addresses the Court's free exercise jurisprudence discussing what counts as religion and the protections that have been afforded to a variety of religious practices. Regrettably, the Court has not offered a principled and consistent account of which religious practices are protected or even how to decide whether a particular practice is protected, which has resulted in similar cases being treated dissimilarly. Further, the Court's free exercise jurisprudence has been used to provide guidance in interpreting federal statutory protections, which is making matters even more chaotic. This book attempts to clarify what the Court has said in the hopes that it will contribute to the development of a more consistent and principled jurisprudence that respects the rights of the religious and the non-religious.

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