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The Constitution In Wartime Beyond Alarmism And Complacency Constitutional Conflicts

Mark Tushnet

The Constitution In Wartime Beyond Alarmism And Complacency Constitutional Conflicts:

Originalism, Federalism, and the American Constitutional Enterprise Edward A. Purcell, 2007-12-28 In this lively historical examination of American federalism a leading scholar in the field refutes the widely accepted notion that the founding fathers carefully crafted a constitutional balance of power between the states and the federal government Edward A Purcell Jr bases his argument on close analysis of the Constitution's original structure and the ways that structure both induced and accommodated changes over the centuries There was no clear agreement among the founding fathers regarding the true nature of American federalism Purcell contends nor was there a consensus on correct lines dividing state and national authority Furthermore even had there been some true original understanding the elastic and dynamic nature of the constitutional structure would have made it impossible for subsequent generations to maintain any original or permanent balance The author traces the evolution of federalism through the centuries focusing particularly on shifting interpretations founded on political interests He concludes with insights into current issues of federal power and a discussion of the grounds on which legitimate decisions about federal and state power should rest

The Constitution in Wartime

Mark Tushnet, 2005-01-26 Essays by leading constitutional scholars on the relationship between war powers and the Constitution in general and in the aftermath of September 11th

States of War

David William Bates, 2012 We fear that the growing threat of violent attack has upset the balance between existential concepts of political power which emphasize security and traditional notions of constitutional limits meant to protect civil liberties We worry that constitutional states cannot during a time of war terror and extreme crisis maintain legality and preserve civil rights and freedoms David Williams Bates allays these concerns by revisiting the theoretical origins of the modern constitutional state which he argues recognized and made room for tensions among law war and the social order We traditionally associate the Enlightenment with the taming of absolutist sovereign power through the establishment of a legal state based on the rights of individuals In his critical rereading Bates shows instead that Enlightenment thinkers conceived of political autonomy in a systematic theoretical way Focusing on the nature of foundational violence war and existential crises eighteenth century thinkers understood law and constitutional order not as constraints on political power but as the logical implication of that primordial force Returning to the origin stories that informed the beginnings of political community Bates reclaims the idea of law warfare and the social order as intertwining elements subject to complex historical development Following an analysis of seminal works by seventeenth century natural law theorists Bates reviews the major canonical thinkers of constitutional theory Locke Montesquieu and Rousseau from the perspective of existential security and sovereign power Countering Carl Schmitt's influential notion of the autonomy of the political Bates demonstrates that Enlightenment thinkers understood the autonomous political sphere as a space of law protecting individuals according to their political status not as mere members of a historically contingent social order

Zones of Twilight

Amanda DiPaolo, 2010-01-01 The Bill of Rights was designed

to protect the American public from encroachments of liberty by the federal government During times of war the president often spearheads efforts to limit rights in the name of national security When these cases make their way through the federal courts system it is expected that the judiciary would use rights based language in their adjudication of cases dealing with such rights based claims *Zones of Twilight* shows that the courts actually use the separation of powers to decide these cases In other words the courts look to see if Congress has authorized the president to limit the liberties in question More often than not if Congress is on board so are the federal courts Although the common conception is that the courts give the presidents a blank check during war it is in fact Congress that has received that blank check *Zones of Twilight* looks at four reoccurring issues during times of war where the courts have had to decide cases where the executive has limited individual freedoms military detentions warrantless electronic surveillance emergency economic powers and free speech Book jacket

Exodus From Empire Terrence E. Paupp,2006-11-20 This book lays out a comprehensive vision for a new world order based on cooperation between the developing world and leading Left countries in Latin America Arguing that the ravages of corporate capitalism are unsustainable Terrence E Paupp presents an energetic critique of the problems of empire and looks ahead to a global countermovement against the IMF and US hegemony

The Constitution in Wartime Mark Tushnet,2005-01-26 Historical and contemporary examinations of the constitutional issues raised by war

Getting to the Rule of Law James E. Fleming,2011-09-01 The rule of law has been celebrated as an unqualified human good yet there is considerable disagreement about what the ideal of the rule of law requires When people clamor for the preservation or extension of the rule of law are they advocating a substantive conception of the rule of law respecting private property and promoting liberty a formal conception emphasizing an inner morality of law or a procedural conception stressing the right to be heard by an impartial tribunal and to make arguments about what the law is When are exertions of executive power outside the law justified on the ground that they may be necessary to maintain or restore the conditions for the rule of law in emergency circumstances such as defending against terrorist attacks In *Getting to the Rule of Law* a group of contributors from a variety of disciplines address many of the theoretical legal political and moral issues raised by such questions and examine practical applications on the ground in the United States and around the world This timely interdisciplinary volume examines the ideal of the rule of law questions when if ever executive power outside the law is justified to maintain or restore the rule of law and explores the prospects for and perils of building the rule of law after military interventions

Bad Advice Harold H. Bruff,2009 A scathing critique of President Bush s legal advisors who expanded the reach of his executive powers while creating highly controversial policies for fighting the War on Terror Argues that these advisors blinded by ideology provided largely bad legal advice that caused great harm and ultimately was unnecessary for national security

Risk Analysis of Natural Hazards Paolo Gardoni,Colleen Murphy,Arden Rowell,2015-10-17 This volume investigates the interdisciplinary and cross cutting challenges in the risk analysis of natural hazards It brings together leading minds in

engineering science philosophy law and the social sciences Parts I and II of this volume explore risk assessment first by providing an overview of the interdisciplinary interactions involved in the assessment of natural hazards and then by exploring the particular impacts of climate change on natural hazard assessment Part III discusses the theoretical frameworks for the evaluation of natural hazards Finally Parts IV and V address the risk management of natural hazards providing first an overview of the interdisciplinary interactions underlying natural hazard management and then exploring decision frameworks that can help decision makers integrate and respond to the complex relationships among natural events the built environment and human behavior *Security Disarmed* Barbara Sutton,Sandra Morgen,Julie Novkov,2008 In Security Disarmed scholars policy planners and activists come together to think critically about the human cost of violence and viable alternatives to armed conflict Arranged in four parts alternative paradigms of security cross national militarization militarism in the United States and pedagogical and cultural concerns the book critically challenges militarization and voices an alternative encompassing vision of human security by analyzing the relationships among gender race and militarization

Denver University Law Review ,2005 *Minnesota Law Review* ,2005 *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 **Pledging Allegiance** Joel Westheimer,2007-03 What does it mean to be patriotic in the United States after the terrorist attacks of September 11 2001 And how have the prevailing notions of patriotism loudly trumpeted in the American media affected education in American schools In this wide ranging thoughtful and spirited book renowned educational leaders and classroom practitioners answer these questions with insights opinions and hard facts Focusing on critical issues related to patriotism and democracy in education including the social studies curriculum military recruitment in schools and student dissent this timely volume Investigates the ways our schools have changed since 9 11 Examines efforts of educators who refuse to toe the new patriotic line Explores how schools mediate national patriotic sentiments Features brief provocative Point of View opinion pieces by a noteworthy cast of commentators *The Political Lincoln* Paul Finkelman,Martin J. Hershock,2009 Expansive coverage of the life politics and legacy of one of the United States most influential presidents

Race and American Political Development Joseph E. Lowndes,Julie Novkov,Dorian Tod Warren,2008 Race has been present at every critical moment in American political development shaping political institutions political discourse public policy and its denizens political identities But because of the nature of race its evolving and dynamic status as a structure of inequality a political organizing principle an ideology and a system of power we must study the politics of race historically institutionally and discursively Covering more than three hundred years of American political history from the founding to

the contemporary moment the contributors in this volume make this extended argument Together they provide an understanding of American politics that challenges our conventional disciplinary tools of studying politics and our conservative political moment s dominant narrative of racial progress This volume the first to collect essays on the role of race in American political history and development resituates race in American politics as an issue for sustained and broadened critical attention *Education 07/08* Fred Schultz,2006-09 This thirty fourth edition of ANNUAL EDITIONS EDUCATION provides convenient inexpensive access to current articles selected from the best of the public press Organizational features include an annotated listing of selected World Wide Web sites an annotated table of contents a topic guide a general introduction brief overviews for each section a topical index and an instructor s resource guide with testing materials USING ANNUAL EDITIONS IN THE CLASSROOM is offered as a practical guide for instructors ANNUAL EDITIONS titles are supported by our student website Symposium ,2006 **Undeclared War and the Future of U.S. Foreign Policy** Kenneth B. Moss,2008-04-23 Discusses the controversy between a declared war and an undeclared war and whether or not the President and Congress has a right to send troops according to the Constitution The author suggests that to this very day almost all U S laws about the appropriate constitutional control over using force face serious challenges from developments such as future weapons technology and information technology since they originated out of the eighteenth century American Book Publishing Record ,2003

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