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ORIGINALISM AND THE GOOD CONSTITUTION

John O. McGinnis
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Originalism And The Good Constitution

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Originalism And The Good Constitution:

Originalism and the Good Constitution John O. McGinnis, Michael B. Rappaport, 2013-11-01 Originalism holds that the U S Constitution should be interpreted according to its meaning at the time it was enacted In their innovative defense of originalism John McGinnis and Michael Rappaport maintain that the text of the Constitution should be adhered to by the Supreme Court because it was enacted by supermajorities both its original enactment under Article VII and subsequent Amendments under Article V A text approved by supermajorities has special value in a democracy because it has unusually wide support and thus tends to maximize the welfare of the greatest number The authors recognize and respond to many possible objections Does originalism perpetuate the dead hand of the past How can originalism be justified given the exclusion of African Americans and women from the Constitution and many of its subsequent Amendments What is originalism s place in interpretation after two hundred years of non originalist precedent A fascinating counterfactual they pose is this had the Supreme Court not interpreted the Constitution so freely perhaps the nation would have resorted to the Article V amendment process more often and with greater effect Their book will be an important contribution to the literature on originalism now the most prominent theory of constitutional interpretation

Originalism and the Good Constitution John O. McGinnis, Michael B. Rappaport, 2013-11-01 John McGinnis and Michael Rappaport argue that the text of the Constitution and its Amendments should be adhered to by the Supreme Court because it was enacted by supermajorities A text approved by supermajorities has special value in a democracy because it has unusually wide support and tends to maximize the welfare of the greatest number

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

The Supreme Court and Constitutional Theory, 1953-1993 Ronald Kahn, 1994 Combining theoretical sophistication with a fundamental comprehension of the political institutions of the USA this study aims to demystify the workings of the United States Supreme Court and its place in democracy

U.C. Davis Law Review University of California, Davis. School of Law, 2014-11

University of Pennsylvania Law Review and American Law Register, 2010

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

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Michigan Law Review, 2016-10

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Rethinking Constitutional Law Earl M. Maltz, 1994 Maltz reformulates the justification for originalist review and refines originalist theory itself he argues that a pure originalist approach mandates excessive judicial intervention under the Constitution and he shows that most nonoriginalist theorists have failed to provide a sufficient functional justification for nonoriginalist intervention

Symposium, a New Constitutional Order?, 2006

Hastings Law Journal, 2008

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