EXPOUNDING THE CONSTITUTION

What does it mean to interpret the constitution? Does constitutional interpretation involve moral reasoning, or is legal reasoning something different? What does it mean to say that a limit on a right is justified?

How does judicial review fit into a democratic constitutional order? Are attempts to limit its scope incoherent? How should a jurist with misgivings about the legitimacy of judicial review approach the task of judicial review? Is there a principled basis for judicial deference?

Do constitutional rights depend on the protection of a written constitution, or is there a common law constitution that is enforceable by the courts? How are constitutional rights and unwritten constitutional principles to be reconciled?

In this book, these and other questions are debated by some of the world’s leading constitutional theorists and legal philosophers. Their essays are essential reading for anyone concerned with constitutional rights and legal theory.

Grant Huscroft is Professor and Associate Dean at the University of Western Ontario in London. He was a member of the Faculty of Law at the University of Auckland, New Zealand, from 1992–2002 and has been a visiting professor at McGill University.

Huscroft has written extensively about constitutional rights and judicial review and his work has been published internationally. He is co-author of the leading treatise The New Zealand Bill of Rights and has co-edited four collections of essays.
Expounding the Constitution

Essays in Constitutional Theory

Edited by

GRANT HUSCROFT
Faculty of Law
University of Western Ontario
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This book arises out of a colloquium held at the Faculty of Law at the University of Western Ontario in October 2006. The idea was to bring together leading constitutional theorists and legal philosophers to discuss and debate issues of mutual interest – issues that transcend the doctrinal, country-specific interests that often dominate discussion of constitutional judicial review.

The result is a book of essays that addresses the key questions in constitutional rights theory today, not only in jurisdictions such as the United States and Canada, where judicial review and the power of the courts to strike down legislation are well established, but also in the UK and New Zealand, where rights protection comes in ordinary statute form and judges are denied the power to strike down legislation, and in Australia, which has no bill of rights at the federal level.

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Grant Huscroft
Faculty of Law
University of Western Ontario
Contributors

Larry Alexander, Warren Distinguished Professor of Law, University of San Diego

James Allan, Garrick Professor of Law, University of Queensland

T.R.S. Allan, Professor of Public Law and Jurisprudence, University of Cambridge

David Dyzenhaus, Professor of Law and Philosophy, University of Toronto

Jeffrey Goldsworthy, Professor of Law, Monash University

Grant Huscroft, Professor of Law, University of Western Ontario

Aileen Kavanagh, Reader in Law, University of Leicester

Bradley W. Miller, Assistant Professor of Law, University of Western Ontario

Steven D. Smith, Warren Distinguished Professor of Law, University of San Diego

Jeremy Waldron, University Professor, New York University

Mark D. Walters, Associate Professor of Law, Queen’s University

W. J. Waluchow, Professor of Philosophy, McMaster University