THE CHALLENGE OF ORIGINALISM

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, provide an introduction to the development of originalist thought, showcase the great range of contemporary originalist constitutional scholarship, and situate 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.

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The Challenge of Originalism

Theories of Constitutional Interpretation

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Preface

This volume originates from a colloquium on originalist constitutional theory hosted in the autumn of 2008 by the Public Law and Legal Philosophy Research Group at the Faculty of Law at the University of Western Ontario. Constitutional scholars and legal philosophers – proponents of originalism, sceptics, and critics – drew from different jurisdictions and intellectual traditions to address the challenge of originalism. Following standard practice at PLLP colloquia, the entirety of the colloquium was given over to the exchange of ideas in informal discussion. The fruit is evident in this volume, which is the product of scholars engaging with each other to identify common ground, refine disagreement, and provoke questions for future discussion.

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Essays arising out of the 2006 Public Law and Legal Philosophy colloquium on law and morality were published by Cambridge University Press as Expounding the Constitution: Essays in Constitutional Theory, Grant Huscroft (ed) (2008), and it has been our great pleasure to work once again with Cambridge and in particular with general editor John Berger.

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