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978-0-521-65883-6 - The Dignity of Legislation
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The Dignity of Legislation

This book is an attempt to restore the good name of legislation in political theory. Focusing in particular on the writings of Aristotle, Locke, and Kant, Jeremy Waldron recovers and highlights ways of thinking about legislation that present it as a dignified mode of governance and a respectable source of law. The emphasis is primarily on legislation by assemblies, large gatherings of representatives who air their disagreements in ferocious debate and make laws by deliberation and voting. Jeremy Waldron presents a unique study of the place of legislation in the canon of political thought – a study which emphasizes the positive features of democracy and representative assemblies. *The Dignity of Legislation* is original in conception, trenchantly argued and very clearly presented, and will be of interest to a wide range of scholars and thinkers.

Jeremy Waldron is Maurice and Hilda Friedman Professor of Law at Columbia University. He has held posts in Oxford, Edinburgh, Berkeley, and Princeton, and has lectured extensively in his native New Zealand. He is author or editor of numerous books and articles on law, philosophy, and political theory, including *The Right to Private Property*, *Liberal Rights: Collected Papers 1981–91* and *The Law*.

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THE JOHN ROBERT SEELEY LECTURES

The John Robert Seeley lectures have been established by the University of Cambridge as a biennial lecture series in social and political studies, sponsored jointly by the Faculty of History and the University Press. The Seeley lectures provide a unique forum for distinguished scholars of international reputation to address, in an accessible manner, themes of broad and topical interest in social and political studies. Subsequent to their public delivery in Cambridge the University Press publishes suitably modified versions of each set of lectures. Professor James Tully of McGill University delivered the inaugural series of Seeley lectures in 1994 on the theme of *Constitutionalism in an Age of Diversity*. Professor Jeremy Waldron of Columbia University gave a series in 1996 on *The Dignity of Legislation*; in 1998, Professor Martha Nussbaum of Brown University delivered the latest series, on *Feminist Internationalism*. Professor Joseph Raz of the University of Oxford will deliver his series in 2000.

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“It is good for me that I have been afflicted,
that I may learn Your statutes.”

PSALM 119:71

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All but one of these chapters were presented as the second series of John Robert Seeley lectures at the University of Cambridge in February 1996. The opportunity to develop and deliver the Seeley lectures was most welcome, and I would like to thank the electors – Professor Quentin Skinner of the Cambridge History Faculty and Jeremy Mynott of Cambridge University Press – for the invitation and for their hospitality. I am grateful also to the Master and Fellows of Christ’s College for providing me with a peaceful and congenial home during my two weeks in Cambridge. Alan Cromarty, John Dunn, Richard Fisher, Ross Harrison, Istvan Hont, Susan James, Melissa Lane, Quentin Skinner, Jonathan Steinberg, Sylvana Tomaselli, and Richard Tuck were generous in their comments and suggestions after each lecture and at the seminar which was held at the end of the series. And I owe a great debt – which I can never repay but will always remember – to Kent Greenawalt, Sandy Kadish, Joseph Raz, Joyce Waldron, and, above all, Carol Sanger, for their faith and encouragement in some difficult months preceding these lectures.

I would like to express my gratitude to the Dean and Faculty of the School of Law at the University of California, Berkeley for allowing me time off from my teaching duties to deliver the Seeley lectures, to the Dean and Faculty of Columbia Law School for providing a collegial environment in which to work on the lectures during 1995, and to the Boalt Hall Fund for supporting that work with a summer stipend. Mary Sue Daniels was an able

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The 1996 Seeley lectures form part of a wider project that I have been working on for a number of years. Versions of Chapter 3 were presented at McGill Law School, at the Harvard Government Department and at Columbia Law School in 1995. An early version of Chapter 4 was presented at Princeton University in 1995. And a version of Chapter 6 was also presented that year as a public lecture at the University of Vermont. Some of the material in Chapter 2 surfaced in a lecture I gave (the Gerber Lecture) at the University of Maryland School of Law in 1994; it was published as “The Dignity of Legislation” in the *Maryland Law Review*, 54 (1995). A version of Chapter 3 was published as “Kant’s Legal Positivism” in the *Harvard Law Review*, 109 (1996). Chapter 5 was published in *Political Theory*, 23 (November, 1995). It was not one of the original presentations I gave at Cambridge, but it fits so well with the material from the Seeley lectures that I am grateful for the opportunity to include it here. A quite different version of Chapter 6 (omitting the material on Locke’s account of majority-decision)

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has been published under the title “Legislation, Authority, and Voting,” in the *Georgetown Law Journal*, 84 (1996).

The present book complements some more analytical work that I have done in jurisprudence on the subject of law, legislation, disagreement, and rights: that work is published in a separate book, entitled *Law and Disagreement* (Oxford University Press, 1999). The two books have common concerns – a concern to place legislatures at the center of our philosophical thinking about law, and a concern to avoid minimizing the theoretical implications of disagreement concerning justice and rights – but there is little substantial overlap. The revised version of Chapter 6 that I referred to above appears also in *Law and Disagreement*, but for the most part there is a tidy division of labor between the two volumes. *Law and Disagreement* deals with these issues mostly analytically, whereas the Seeley lectures focus primarily on contributions to our understanding of legislation from the history of political thought. I hope that, together, the two add up to the beginning of a project that will enrich our work in legal philosophy with the resources of political theory.