

# Contents

---

Acknowledgements	vii
Introduction Brian H. Bix	ix

## PART I CONSTITUTIONAL INTERPRETATION

1. A.C. Pritchard and Todd J. Zywicki (1999), 'Finding the Constitution: An Economic Analysis of Tradition's Role in Constitutional Interpretation', <i>North Carolina Law Review</i> , <b>77</b> (2), January, 409–521	2
2. John O. McGinnis (2014), 'Public Choice Originalism: Bork, Buchanan, and the Escape from the Progressive Paradigm', <i>Journal of Law, Economics and Policy</i> , <b>10</b> (3), Fall, 669–88	115

## PART II STATUTORY INTERPRETATION

3. Jonathan R. Macey (1986), 'Promoting Public-Regarding Legislation through Statutory Interpretation: An Interest Group Model', <i>Columbia Law Review</i> , <b>86</b> (2), March, 223–68	136
4. John A. Ferejohn and Barry R. Weingast (1992), 'A Positive Theory of Statutory Interpretation', <i>International Review of Law and Economics</i> , <b>12</b> (2), June, 263–79	182
5. Robert D. Cooter and Tom Ginsburg (1996), 'Comparative Judicial Discretion: An Empirical Test of Economic Models', <i>International Review of Law and Economics</i> , <b>16</b> (3), September, 295–313	199
6. Arthur Lupia and Mathew D. McCubbins (2005), 'Lost in Translation: Social Choice Theory is Misapplied Against Legislative Intent', <i>Journal of Contemporary Legal Issues</i> , <b>14</b> (2), February, 585–617	218

## PART III PRECEDENT

7. William M. Landes and Richard A. Posner (1976), 'Legal Precedent: A Theoretical and Empirical Analysis', <i>Journal of Law and Economics</i> , <b>19</b> (2), August, 249–307	252
8. Erin O'Hara (1993), 'Social Constraint or Implicit Collusion?: Toward a Game Theoretic Analysis of Stare Decisis', <i>Seton Hall Law Review</i> , <b>24</b> (2), June, 736–78	311
9. Vincy Fon and Francesco Parisi (2006), 'Judicial Precedents in Civil Law Systems: A Dynamic Analysis', <i>International Review of Law and Economics</i> , <b>26</b> (4), December, 519–35	354

10. Nicola Gennaioli and Andrei Shleifer (2007), 'Overruling and the Instability of Law', *Journal of Comparative Economics*, **35** (2), June, 309–28 371

#### PART IV INTERPRETING CONTRACTS

11. Ian Ayres and Robert Gertner (1989), 'Filling Gaps in Incomplete Contracts: An Economic Theory of Default Rules', *Yale Law Journal*, **99** (1), October, 87–130 392
12. Alan Schwartz (1992), 'Relational Contracts in the Courts: An Analysis of Incomplete Agreements and Judicial Strategies', *Journal of Legal Studies*, **21** (2), June, 271–318 436
13. Gillian K. Hadfield (1994), 'Judicial Competence and the Interpretation of Incomplete Contracts', *Journal of Legal Studies*, **23** (1), January, 159–84 484
14. Alan Schwartz and Robert E. Scott (2003), 'Contract Theory and the Limits of Contract Law', *Yale Law Journal*, **113** (3), December, 541–619 510
15. Avery Wiener Katz (2004), 'The Economics of Form and Substance in Contract Interpretation', *Columbia Law Review*, **104** (2), March, 496–538 589
16. Richard A. Posner (2005), 'The Law and Economics of Contract Interpretation', *Texas Law Review*, **83** (6), May, 1581–614 632
17. Alan Schwartz and Robert E. Scott (2010), 'Contract Interpretation Redux', *Yale Law Journal*, **119** (5), March, 926–64 666
18. Steven J. Burton (2013), 'A Lesson on Some Limits of Economic Analysis: Schwartz and Scott on Contract Interpretation', *Indiana Law Journal*, **88** (1), Winter, 339–60 705