

Contents

1. The Forms and Limits of Constitutional Interpretation	1
1. Judicial Review and Democracy	1
2. Contract Theory	5
3. Process Theory	15
4. Moral Theory	25
5. Judicial Practice	33
2. Liberty	36
1. Interpretivism	37
2. Pragmatism	44
3. Religious Liberty and Popular Sovereignty	49
4. Religious Liberty on the Sabbath	57
5. Religious Liberty and State Morality	64
6. Revelations	72
3. Equality	76
1. Sex Discrimination	76
2. Equal Opportunities for Women	80
3. Equal Opportunities for Lesbians and Gays	98
4. Liberty, Equality, and Proportionality	113
4. Fraternity	119
1. Philosophical Objections to Social and Economic Rights	119
2. Rethinking Old Ideas in a New Millennium	126
3. Legal Enforcement of Social and Economic Rights	129
3.1 The Right to Work	129
3.2 The Right to the Necessities of Life	136
4. The Justice of Fair Shares	144
5. The Law of Fair Shares	148
5. Proportionality	159
1. Proportionality and the Paradox	159
2. The Neutrality of Proportionality	161
2.1 Proportionality and Private Law	164
2.2 Proportionality and Perspective	166

3. The Logic of Proportionality	169
4. The Justice of Proportionality	171
5. Proportionality and Private Schools	176
6. Proportionality and Pragmatism	182
 <i>Index</i>	 189