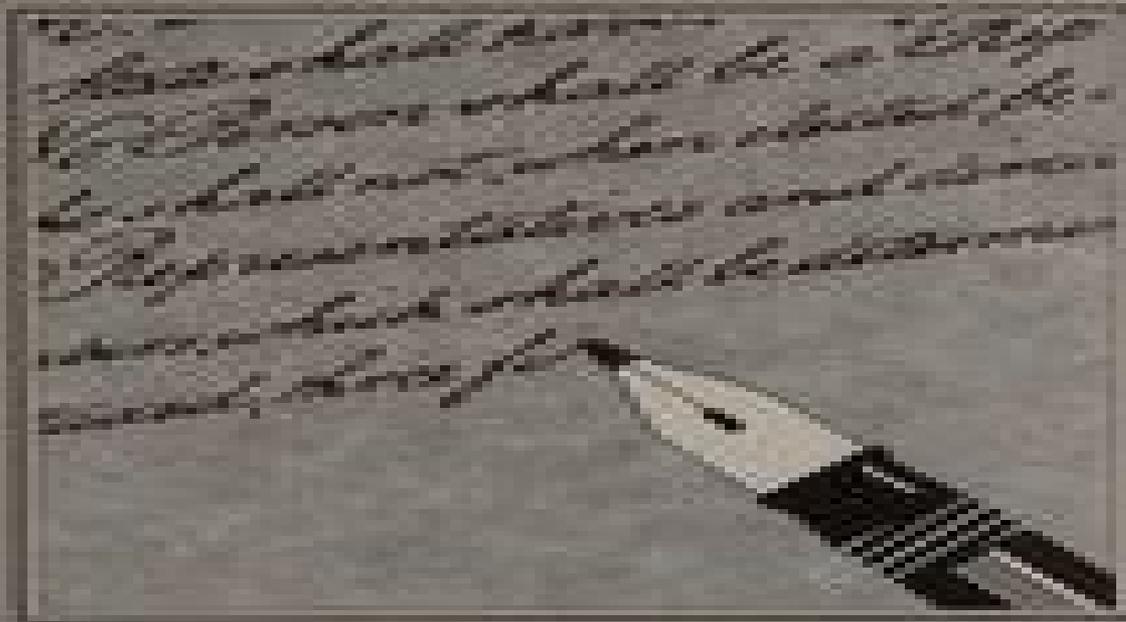


THE UNFINISHED CONSTITUTION

PHILOSOPHY AND CONSTITUTIONAL PRACTICE

JOHN ARTHUR



Unfinished Constitution

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Unfinished Constitution:

Daniel Webster and the Unfinished Constitution Peter Charles Hoffer, 2021-03-26 Daniel Webster and the Unfinished Constitution reveals Webster as the foremost constitutional lawyer of his day Peter Charles Hoffer builds a persuasive case that Webster was more than a skilled practitioner who rose rapidly from his hardscrabble New Hampshire origins Hoffer thoroughly documents the ways in which Webster was an innovative jurist While Chief Justice John Marshall gets credit for much of our early constitutional jurisprudence in fact in a series of key cases Marshall simply borrowed Webster's oral and written arguments For Webster Marshall and many lawyers and jurists of their day professions of adherence to the Constitution were universal Yet they knew that the Constitution could not be fixed in time its text needed to be read in light of the rapidly transforming early republic and antebellum eras or it would become irrelevant As Chief Justice Marshall explained in *Bank of the United States v Deveaux* 1809 A constitution from its nature deals in generals not in detail Its framers cannot perceive minute distinctions which arise in the progress of the nation and therefore confine it to the establishment of broad and general principles But were these broad and general principles themselves fixed For Webster there were landmarks the Contract Clause and the Commerce Clause While others were exploring and surveying the Northwest Territory and the Louisiana Purchase Webster set out to map the spaces in the constitutional and legal landscape that were unmarked Peter Charles Hoffer provides an insightful and timely study of how Webster's analysis of three key constitutional issues is relevant to today's constitutional conflicts the relationship between law and politics between public policy and private rights and between the federal government and the states all of which remain contentious in our constitutional jurisprudence and crucial to our constitutional order

The Unfinished Constitution John Arthur, 1989
Constitution, Jefferson's Manual and Rules of the House of Representatives United States. Congress. House, 1900 The History of the English Constitution Rudolph Gneist, 1891 By translating this text from German this work filled the gap of providing a consecutive history of the English Constitution tracing the development of its political system following it through its various phases *Three Speeches that Saved the Union* Peter Charles Hoffer, 2025-09-09 How three skilled orators navigated a polarized political landscape For the generation of politicians who inherited the Republic and the Union the opening months of 1850 were a desperate time filled with increasing animosity between free and slave state leaders over issues of the expansion of slavery Following the end of the Mexican American War and the subsequent expansion of American territory came a series of fiery debates over how this new territory would be governed and whether to allow California's admission to the Union as a free state *Three Speeches That Saved the Union* provides the first ever deep content analysis of the three most eventful speeches delivered in the US Senate Historian Peter Charles Hoffer offers a thorough analytical study of the roles of the great triumvirate of American political leaders Henry Clay John C Calhoun and Daniel Webster played in preserving the American Union All three were lawyers and for lawyers especially words mattered As is the case today

practicing law meant knowing and using terms of art correctly and knowing which words would sway a jury or a nation Despite their opposing viewpoints these skilled orators urged for some kind of compromise that would diffuse the possibility of civil war Providing all three speeches in their entirety alongside a running commentary framing the political climate and manner in which each of these speeches were delivered Hoffer demonstrates how intractable the slavery issue had become how near a civil war was and how it was prevented at least for a time Three Speeches That Saved the Union is an invaluable study of a nation that three speeches pulled from the brink of dissolution *The Second Creation* Jonathan Gienapp,2018-10-09 A stunning revision of our founding document s evolving history that forces us to confront anew the question that animated the founders so long ago What is our Constitution Americans widely believe that the United States Constitution was created when it was drafted in 1787 and ratified in 1788 But in a shrewd rereading of the Founding era Jonathan Gienapp upends this long held assumption recovering the unknown story of American constitutional creation in the decade after its adoption a story with explosive implications for current debates over constitutional originalism and interpretation When the Constitution first appeared it was shrouded in uncertainty Not only was its meaning unclear but so too was its essential nature Was the American Constitution a written text or something else Was it a legal text Was it finished or unfinished What rules would guide its interpretation Who would adjudicate competing readings As political leaders put the Constitution to work none of these questions had answers Through vigorous debates they confronted the document s uncertainty and over time how these leaders imagined the Constitution radically changed They had begun trying to fix or resolve an imperfect document but they ended up fixing or cementing a very particular notion of the Constitution as a distinctively textual and historical artifact circumscribed in space and time This means that some of the Constitution s most definitive characteristics ones which are often treated as innate were only added later and were thus contingent and optional

Comparative Constitutional History Francesco Biagi,Justin O. Frosini,Jason Mazzone,2022-12-05 Constitutions are a product of history but what is the role of history in interpreting and applying constitutional provisions This volume addresses that question from a comparative perspective examining different uses of history by courts in determining constitutional meaning The book shows that there is considerable debate around the role of history in constitutional adjudication Are for example historical public debates over the adoption of a constitution relevant to reading its provisions today If a constitution represents a break from a prior repressive regime should courts construe the constitution s provisions in light of that background Are former constitutions relevant to interpreting a new constitution Through an assessment of current practices the volume offers some lessons for the future practices of courts as they adjudicate constitutional cases Contributors are Mark D Rosen Jorge M Farinacci Fern s Justin Collings Jean Christophe B dard Rubin Cem Tecimer ngel Aday Jim nez Alem n Ana Beatriz Robalinho Keigo Obayashi Zolt n Sente Shih An Wang and Diego Werneck Arguelhes **...Constitution of the United States** United States. Congress House,1912 *The Wheel of Law* Gary Jeffrey Jacobsohn,2009-01-10 How can

religious liberty be guaranteed in societies where religion pervades everyday life In *The Wheel of Law* Gary Jacobsohn addresses this dilemma by examining the constitutional development of secularism in India within an unprecedented cross national framework that includes Israel and the United States He argues that a country s particular constitutional theory and practice must be understood within its social and political context The experience of India where religious life is in profound tension with secular democratic commitment offers a valuable perspective not only on questions of jurisprudence and political theory arising in countries where religion permeates the fabric of society but also on the broader task of ensuring religious liberty in constitutional polities India s social structure is so entwined with religion Jacobsohn emphasizes that meaningful social reform presupposes state intervention in the spiritual domain Hence India s ameliorative model of secular constitutionalism designed to ameliorate the disabling effects of the caste system and other religiously based practices Jacobsohn contrasts this with the visionary secularism of Israel where the state identifies itself with a particular religion and with America s assimilative secularism Constitutional globalization is as much a reality as economic globalization Jacobsohn concludes and within this phenomenon the place of religion in liberal democracy is among the most vexing challenges confronting us today A richly textured account of the Indian experience with secularism developed in a broad comparative framework this book is for all those seeking ways to respond to this challenge

Comparative Constitutional Reasoning
 András Jakab, Arthur Dyevre, Giulio Itzcovich, 2017-04-27 To what extent is the language of judicial opinions responsive to the political and social context in which constitutional courts operate Courts are reason giving institutions with argumentation playing a central role in constitutional adjudication However a cursory look at just a handful of constitutional systems suggests important differences in the practices of constitutional judges whether in matters of form style or language Focusing on independently verified leading cases globally a combination of qualitative and quantitative analysis offers the most comprehensive and systematic account of constitutional reasoning to date This analysis is supported by the examination of eighteen legal systems around the world including the European Court of Human Rights and the European Court of Justice Universally common aspects of constitutional reasoning are identified in this book and contributors also examine whether common law countries differ to civil law countries in this respect

The Lawyers Reports Annotated, 1915

European Constitutionalism Beyond the State J. H. H. Weiler, Marlene Wind, 2003-09-04 Some of the most innovative scholars in the field of European constitutionalism come together in this book to highlight different facets of the new constitutional discussion Provoking deep analysis of the different ideas of constitution and constitutionalism it delineates new ways of thinking about the future of Europe In particular it aims to challenge the idea of the European Union as an evolving federal polity This book will appeal to anyone interested in the timely subject of constitutionalism including student and practitioners of law politics and philosophy

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