The Separation of Powers Essay

Discuss

This essay aims to examine the reasons for and why it is important to have a separation of powers, to examine the United Kingdom's constitution, assessing our somewhat unclear separation of powers, and discussing the reasons why we do not have a strict separation, taking into account the overlaps and relationships between each limb of Government and the checks and balances required for it to operate efficiently.

The political doctrine of the Separation of Powers can be traced back to Aristotle, who states: "There are three elements in each constitution ..first, the deliberative, which discusses everything of common importance; second the officials; and third, the judicial element." This highlights the three elementary functions that are required for the organisation of any state. Nowadays, they are defined as the legislature, the executive and the judiciary, and are carried out by Government.

The legislature is the law-making body, and is comprised of the House of Commons and the House of Lords. The legislative function involves 'the enactment of general rules determining the structure and powers of public authorities and regulating the conduct of citizens and private organisations.

The executive is all the institutions and persons concerned with the implementation of the laws made by the legislature. It involves central and local government and the armed forces. The role of the executive '..includes initiating and implementing legislation, maintaining order and security, promoting social and economic welfare, administering public services and conducting the external relations of the state.

The judiciary is made up mainly of professional judges, and their main function is 'to determine disputed questions of fact and law in accordance with the law laid down by Parliament and expounded by the courts and ..is exercised mainly in the civil and criminal courts.'

The question which now arises is whether or not there should be a strict separation of each of the above functions. Locke stated:

...it may be too great a temptation to human frailty..for the same persons who have the power of making laws, to have also their hands the power to execute them, whereby they may exempt themselves from obedience to the laws they make, and suit the law, both in its making and execution, to their own private advantage.

Similarly, Montesquieu believed that:

When legislative power is united with executive power in a single person or in a single body of the magistracy, there is no liberty #46; is there

Separation Of Powers Essay

Dwight Waldo

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The Administrative State Dwight Waldo, 2006-12-01 This classic text originally published in 1948 is a study of the public administration movement from the viewpoint of political theory and the history of ideas It seeks to review and analyze the theoretical element in administrative writings and to present the development of the public administration movement as a chapter in the history of American political thought The objectives of The Administrative State are to assist students of administration to view their subject in historical perspective and to appraise the theoretical content of their literature It is also hoped that this book may assist students of American culture by illuminating an important development of the first half

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American Constitutional Law Donald P. Kommers, John E. Finn, Gary J. Jacobsohn, 2004 Designed for an undergraduate course in US constitutional law the casebook takes a liberal arts approach tracing constitutional doctrine and policy back to their foundation in social moral and political theory and prompting students to engage the great questions of political life addressed by the Constitution and its interpretation Opinions of the US Supreme Court constitute the core of the documents The first edition was published in 1998 the second adds and updates topics Annotation 2004 Book News Inc Portland OR

booknews com The Deadline: Essays Jill Lepore,2023-08-29 Jill Lepore is unquestionably one of America's best historians it's fair to say she's one of its best writers too Jonathan Russell Clark Los Angeles Times Best Books of 2023 New Yorker TIME A book to be read and kept for posterity The Deadline is the art of the essay at its best Few if any historians have brought such insight wisdom and empathy to public discourse as Jill Lepore Arriving at The New Yorker in 2005 Lepore with her panoptical range and razor sharp style brought a transporting freshness and a literary vivacity to everything from profiles of long dead writers to urgent constitutional analysis to an unsparing scrutiny of the woeful affairs of the nation itself The astonishing essays collected in The Deadline offer a prismatic portrait of Americans techno utopianism frantic fractiousness and unprecedented but armed aimlessness From lockdowns and race commissions to Bratz dolls and bicycles to the losses that haunt Lepore's life these essays again and again cross what she calls the deadline the river of time that divides the quick from the dead Echoing Gore Vidal's United States in its massive intellectual erudition The Deadline with its remarkable juxtaposition of the political and the personal challenges the very nature of the essay and of history itself

Collected Essays on Political Economy and Wartime Civil Liberties, 2002-2008 Peter McMillan, 2019-10-19 A collection of 64 essays written between 2002 2008 primarily about economics theory versus actually existing capitalism through various topics including economic growth business cycles globalization and monopoly power and political science theory versus actually existing democracy through various topics including constitutional government emergency powers and civil liberties The geographic focus is the English speaking nations of the Northern Hemisphere primarily the U S A significant reason for setting this time frame is that it corresponds to a period when the author was experiencing his own darkness at noon Essay on Electricity, Explaining the Theory and Practice of that Uleful Science George Adams, 1787 **Electricity** George Adams, 1787 Gellhorn and Byse's Administrative Law Peter L. Strauss, Todd D. Rakoff, Cynthia R. Farina, 2003 After defining the constitutional framework for administration the casebook discusses related topics such as downsizing government regulators thirst for information and the Paperwork Reduction Act Fourth and Fifth Amendment concerns Freedom of Information Act and the future of the administrative state Author forum available at twen com A premium Teacher's Manual is available upon request for professors adopting this casebook Essays in Honour of Wang Tieya Ronald St. John Macdonald, 2024-12-09 The Cloaking of Power Paul O. Carrese, 2010-02-15 How did the US judiciary become so powerful powerful enough that state and federal judges once vied to decide a presidential election What does this prominence mean for the law constitutionalism and liberal democracy In The Cloaking of Power Paul O Carrese provides a provocative analysis of the intellectual sources of today s powerful judiciary arguing that Montesquieu in his Spirit of the Laws first articulated a new conception of the separation of powers and strong but subtle courts Montesquieu instructed statesmen to cloak power by placing judges at the center of politics while concealing them behind juries and subtle reforms Tracing this conception through Blackstone Hamilton and Tocqueville Carrese shows how it led to the

prominence of judges courts and lawyers in America today But he places the blame for contemporary judicial activism squarely at the feet of Oliver Wendell Holmes Jr and his jurisprudential revolution which he believes to be the source of the now prevalent view that judging is merely political To address this crisis Carrese argues for a rediscovery of an independent judiciary one that blends prudence and natural law with common law and that observes the moderate jurisprudence of Montesquieu and Blackstone balancing abstract principles with realistic views of human nature and institutions He also advocates for a return to the complex constitutionalism of the American founders and Tocqueville and for judges who understand their responsibility to elevate citizens above individualism instructing them in law and right

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