
CONSTITUTIONAL COMMENTARY

Volume 11, Number 3

Winter 1994-95

But Cf . . .

Poverty and Discrimination:

Notes on *American Apartheid* *Daniel A. Farber*

Articles

The Project of the Harvard *Forewords*:

A Social and Intellectual Inquiry *Mark Tushnet
& Timothy Lynch*

Hate Speech and the Constitution *Murray Dry*

The Nomination of Justice Brennan:

Eisenhower's Mistake? A Look
at the Historical Record *Stephen J. Wermiel*

A Deweyan Perspective on the Economic

Theory of Democracy *Margaret Jane Radin*

Busting the Hart & Wechsler Paradigm *Michael Wells*

*Book Reviews by Rebecca L. Brown, Jim Chen, Daniel A. Farber,
Kevin T. McGuire, Michael Zuckert*

THE UNIVERSITY OF MINNESOTA LAW SCHOOL

CONSTITUTIONAL COMMENTARY

Daniel A. Farber, Philip P. Frickey,
Suzanna Sherry Editors
Kristin Johnson Chief Technical Editor
David Flower, Bridget McKeon,
Pamela Schmidt Technical Editors
Laurie Newbauer Administrative Assistant

CONTENTS

BUT CF. . . .

Poverty and Discrimination:
Notes on *American Apartheid* Daniel A. Farber 455

ARTICLES

The Project of the Harvard *Forewords*:
A Social and Intellectual Inquiry Mark Tushnet 463
& Timothy Lynch
Hate Speech and the Constitution Murray Dry 501
The Nomination of Justice Brennan:
Eisenhower's Mistake? A Look
at the Historical Record Stephen J. Wermiel 515
A Deweyan Perspective on the
Economic Theory of
Democracy Margaret Jane Radin 539
Busting the Hart & Wechsler Paradigm Michael Wells 557

BOOK REVIEWS

The Interpretable Constitution Rebecca L. Brown 587
The Moral Tradition of American
Constitutionalism: A
Theological Interpretation Jim Chen 599
Black Faces, Black Interests:
The Representation of African
Americans in Congress Daniel A. Farber 613

Critical Judicial Nominations and Political Change: The Impact of Clarence Thomas Justice Antonin Scalia and the Supreme Court's Conservative Moment	<i>Kevin T. McGuire</i>	622
Liberalism at the Crossroads	<i>Michael Zuckert</i>	627

Constitutional Commentary is a publication of the Minnesota Center for Legal Studies endowed by the law firm of Zelle and Larson.

Constitutional Commentary is published by the University of Minnesota Law School three times a year in February, May, and September. Subscription: 1 year, \$18.00; single copies of issues in the current volume, \$9.00. Subscriptions are automatically renewed upon expiration unless a request for discontinuance is received.

Constitutional Commentary invites the submission of unsolicited manuscripts. We regret that such manuscripts cannot be returned except upon receipt of postage and handling fees of \$2.50. Citations conform generally to *The University of Chicago Manual of Legal Citation* ("The Maroon Book"), supplemented by *The Chicago Manual of Style*.

Communications should be addressed to: *Constitutional Commentary, University of Minnesota Law School, 229 19th Avenue South, Minneapolis, Minnesota 55455. Telephone: (612) 625-4819 (office); (612) 625-8034 (subscriptions).*

Copyright © 1995 by *Constitutional Commentary*.